MODESTO CITY COUNCIL
RESOLUTION NO. 2005-219

A RESOLUTION AMENDING SECTION 1 OF RESOLUTION NO. 85-240 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(371), (ROBERT L. ERICKSON)." (BOB ERICKSON)

WHEREAS, the City Council, by Ordinance No. 1616-C.S., which was introduced on April 25, 1977, finally adopted on May 2, 1977, and which became effective on June 1, 1977, amended Section 18-3-9 of the Zoning Map to reclassify from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(159), and

WHEREAS, Modesto City Council Resolution No. 77-435, which was approved on April 25, 1977, approved a development plan for Planned Development Zone, P-D(159), and

WHEREAS, the City Council, by Ordinance No. 2173-C.S., which was introduced on February 8, 1983, finally adopted on February, 15, 1983, and which became effective on March 17, 1983, amended Planned Development Zone, P-D(159), to allow an outdoor bicycle race course, and

WHEREAS, Modesto City Council Resolution No. 83-75, which was approved on February 8, 1983, approved an amendment to the development plan for Planned Development Zone P-D(159), to allow an outdoor bicycle race course, and

WHEREAS, the City Council, by Ordinance No. 2327-C.S., which was introduced on April 23, 1985, finally adopted on May 7, 1985, and which became effective on June 6, 1985, amended Section 18-3-9 of the Zoning Map to reclassify from Planned Development P-D(159), to Planned Development Zone, P-D(371), to allow a mini-storage facility as a permitted use, and
WHEREAS, Modesto City Council Resolution No. 85-240, which was approved on April 23, 1985, approved of a development plan for Planned Development Zone, P-D(371),

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(371) was filed by Bob Erickson on December 28, 2004, to allow General Commercial Zone, C-2, uses on the property located on the south side of West Briggsmore Avenue east of Prescott Road, 2000 west Briggsmore Avenue, and

WHEREAS, after a public hearing held on March 21, 2005, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2005-13, that the amendment to Planned Development Zone P-D(371), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Plan Development Amendment is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “C” (Commercial), and the amendment to allow General Commercial uses will be consistent with the General Plan land use and intensity.

2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

3. Expanding the uses would provide flexibility to the Planned Development Zone and provide ample opportunity for redevelopment of the infill property.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 26, 2005, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and
WHEREAS, after said public hearing the Council found and determined that the application of Bob Erickson for an amendment to Planned Development Zone, P-D(371) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-13 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3388-C.S. on the 26th day of April, 2005, amending Section 2 of Ordinance No. 2327-C.S. to add General Commercial Zone, C-2, uses in addition to the existing skating rink, family amusement center, and a mini storage facility, in Planned development Zone, P-D(371).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 of Modesto City Council Resolution No. 85-240 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(371), (Robert L. Erickson)" is hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(371), is hereby approved subject to the following conditions:

1. All previous conditions and requirements imposed on the site will remain in effect for this new proposal. All conditions of Planned Development Zone P-D(371), as stated in Council Resolution No. 85-240, not in conflict with this action shall remain in full force and effect.

2. All development shall conform to the plot plan titled "Plot Plan to Amend Planned Development" as amended in red, stamped approved by the Planning Commission on March 18, 1985.

3. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
4. Trash cans shall be screened from view from any public street.

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

SECTION 2. DEVELOPMENT SCHEDULE. The proposal does not involve new improvements on site, no new development schedule is proposed.

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until Ordinance No. 3388amending Ordinance No. 2327-C.S becomes effective.”
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April, 2005, by Councilmember Marsh, 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: JHAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-220

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING PLANNED DEVELOPMENT ZONE P-D (371), PROPERTY LOCATED AT 2000 WEST BRIGGSMORE AVENUE (BOB ERICKSON)

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

WHEREAS, Bob Erickson has proposed an amendment to Planned Development Zone P-D(371) to allow C-2 General Commercial Zone uses on site in addition to the existing Skating Rink, Family Amusement Center, and a Mini Storage Facility at 2000 West Briggsmore Avenue, and

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

WHEREAS, the City’s Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2005-07 ("Initial Study") reviewed the proposed amendment to P-D(371) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed
project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2005-13 recommended to the City Council approval of the application of Bob Erickson to amend Planned Development Zone, P-D(371), for the property located on the south side of west Briggsmore Avenue east of Prescott Road, to allow C-2 General Commercial uses on site as set forth in said Resolution No. 2005-13, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 26, 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 amendment to P-D(371), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The proposed Amendment to Planned Development Zone, P-D(371) is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “C” (Commercial), and the amendment to allow General Commercial uses will be consistent with the General Plan land use and intensity.

2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

3. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project or otherwise made conditions of approval of the project.
4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

5. Based on the Initial Study, the City of Modesto finds and determines:

   a). The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

   b). No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2005-07, provides the substantial evidence to support finding numbers 2-5 noted 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 26th day of April 2005, by Councilmember Marsh, 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, Mash, 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
EXHIBIT A

Initial Study

EA/C&ED No. 2005-07
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2005-07)

For the proposed:

PDA- Amendment to Planned Development P-D (371)

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

02/25/05
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

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

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: PDA – Roller King, Planned Development Amendment, P-D (371)
B. Address or Location: 2000 W. Briggsmore Avenue
C. Applicant: Robert Erickson, 3883 Blue Bird Lane, Loomis, Ca. 95650
D. City Contact Person: Daniel De La O
   Project Manager: Daniel De La O
   Department: Community and Economic Development Department
   Phone Number: (209) 577-5267
   E-mail address: ddelao@modestogov.com
E. Current General Plan Designation(s): "C" Commercial
F. Current Zoning Classification(s): P-D (371), Planned Development
G. Surrounding Land Uses:
   North: Commercial (C-3 Commercial)
   South: Commercial (Both C-1 & C-3 Commercial)
   East: Residential Units (R-2 Residential)
   West: Commercial (C-1 Commercial)
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The proposed project will involve an amendment to the existing P-D zone designation. Currently the existing building within this Planned development P-D (371) only permits a skating rink business. The proposed amendment would expand the uses allowed within the building to include C-2 Zone uses. The proposed project will not involve any expansion to the boundaries of the property nor does it include expansion or modification to the existing building. No physical changes will occur and none are requested by the city as conditions of approval for this zone amendment.

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

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

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

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

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

   D. Based on the Initial Study, the City of Modesto finds and determines:

      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21156 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

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

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.
B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

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

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

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

![Signature]
Project Manager

![Signature]
Assistant Planner

Date 3-2-05
4. Within the Scope Analysis of this Document:

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

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

(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.

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

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

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

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

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

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

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.
(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

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

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

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

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

This project involves an amendment to the existing Planned Development P-D (371) to expand the existing uses to include C-2 General Commercial Uses. Because the project only involves a zone amendment to a previously approved project development, no increase in vehicle traffic is expected. The use and activities will not change to a level that will cause a change to the existing road capacities or levels of service. The previously approved P-D (371) project was designed to accommodate intense commercial activities.

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

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

c. Project-Specific Effects

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

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

YES NO

(1) The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.

Note:
If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). □ X

(3) Result in inadequate emergency access. □ X

(4) Result in inadequate parking capacity. □ X

**DISCUSSION:**

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.  
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The proposed development will involve an amendment to the Planned Development zone. No physical changes to the site or building are included with this proposal. The previously approved site design will remain unaltered and as a result will remain in compliance to city regulations. All previous conditions, mitigations, and requirements will remain in full effect for this proposal and shall be made a condition of approval.

2. **AIR QUALITY**

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

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

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

**Effect:** Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*
b. Master EIR and/or New Mitigation Measures Applied to the Project

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

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would expose sensitive receptors to substantial pollutant concentrations.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(5) The project would create objectionable odors affecting a substantial number of people.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) The existing Planned Development project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies have been applied to the previously approved project site. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
(4) The project is not a significant contributor to pollution levels in that it involves only a zoning amendment to the existing Planned Development zone.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

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

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

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

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

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

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>
The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

DISCUSSION:

(1) The existing business is in compliance to the City's noise policy. As indicated above the proposed project will only involve an amendment to the Planned Development zone. No additional noise issues will be created.

(2) The project is consistent with what the General Plan assumed for the site both in land use and intensity and is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the previously approved project and business. These conditions will remain in effect for this new P-D proposal.

(3) No noise levels will be increase due to the amendment to the Planned Development zone project. Therefore, this project will not result in a substantial permanent increase in ambient noise levels. Any future development, site modifications, or building additions would be reviewed for compliance to the General Plan, the municipal code, and the Master EIR.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be no construction related noise proposed for the site. Mitigation measures called for by the General Plan for projects within the baseline-developed area are not required.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

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

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

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

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

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area.
b. Master EIR and/or New Mitigation Measures Pertinent to the Project

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

DISCUSSION:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2)</td>
<td>The project will directly result in the development of land outside the March 2003 planning area boundaries.</td>
<td>X</td>
</tr>
<tr>
<td>(3)</td>
<td>The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.</td>
<td>X</td>
</tr>
<tr>
<td>(4)</td>
<td>The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.
5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) Sufficient water supplies are not available to serve the project from</td>
<td>X</td>
</tr>
</tbody>
</table>
existing entitlements and resources, new or expanded entitlements are needed.

**DISCUSSION:**

1. The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

2. The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. **SANITARY SEWER SERVICES**

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

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

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

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

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

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

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

**DISCUSSION:**

There are no mitigation measure applicable to this project.
c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

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

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

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:
DISCUSSION:
There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. This site is fully developed, within the urbanized area of the city, and is completely surrounded by urbanization.

c. Project-Specific Effects

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

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

- [ ] (1) The project is inconsistent with the Modesto Urban Area General Plan.
- [x] (2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.
- [x] (3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

DISCUSSION:

- [x] (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- [x] (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- [x] (3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.
Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. The project does not involve physical development and as a result no measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

YES NO

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

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

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.
9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

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

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. The site is fully developed and this new proposal will only involve an amendment to the Planned development zone with no physical changes to the property. No measures will be incorporated into or made conditions of approval of this project.

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

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

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

(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite. ☐ X

(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project does not propose to increase the impervious surface on the property. The project will not require new Development-Storm Water Quality Control Measures, as adopted by the City, due to the lack of any physical development to the existing site.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into or made conditions of approval of the previously approved development. This project will not involve any modification to the existing site that would require additional measures applied to the new proposal.

**DISCUSSION:**

There are no mitigation measures applicable to this project.

c. **Project-Specific Effects**

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

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

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☑</td>
</tr>
<tr>
<td>(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>☑</td>
</tr>
<tr>
<td>(3) The project does not comply with Modesto’s Guidance Manual for New Development Storm water Quality Control Measures.</td>
<td>☑</td>
</tr>
<tr>
<td>(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td>☑</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the General Plan Designation for the site both in land use and intensity.
The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

The project complies with the Guidance Manual for New Development Storm Water Quality Control Measures.

The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

DISCUSSION:

There are no mitigation measure applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th>City of Modesto Finding of Conformance</th>
<th>Initial Study</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Plan Master EIR</td>
<td></td>
</tr>
<tr>
<td>YES NO</td>
<td>EAC&amp;ED No. 2005-07</td>
</tr>
<tr>
<td></td>
<td>02/25/05</td>
</tr>
</tbody>
</table>
The project is inconsistent with the Modesto Urban Area General Plan.

DISCUSSION:

The project is consistent with the General Plan in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

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

DISCUSSION:
(1) The project is consistent with the General Plan in both land use and intensity.
(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

YES NO

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

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

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

YES NO

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

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

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

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

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.
This office project will not generate additional waste that will impact facilities. The proposed project is an amendment to the existing Planned development zone with no physical modification to the property.

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

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

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

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

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

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

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☑</td>
</tr>
<tr>
<td>2.</td>
<td>The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td>☑</td>
</tr>
<tr>
<td>3.</td>
<td>The project contains a contaminated site not identified as of March 2003.</td>
<td>☑</td>
</tr>
<tr>
<td>4.</td>
<td>The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>☑</td>
</tr>
<tr>
<td>5.</td>
<td>The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>☑</td>
</tr>
</tbody>
</table>
DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

DISCUSSION:

No mitigation measures are applicable to this project.
c. Project-Specific Effects

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

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

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

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

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

No mitigation measures are applicable to this project.

c. Project-Specific Effects

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

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

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

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

19. PLANNING AND LAND USE

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

a. Project-Specific Effects

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

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

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.
(2) No amendment to the General Plan is required by this project.

(3) The project involves an amendment to the existing Planned development zone that would expand on the uses permitted within the existing building. The site is fully developed and as is an infill development that will not divide an established community.

20. AESTHETICS

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

a. Project-Specific Effects

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

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project would have a substantial adverse effect on a scenic vista.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. This is an existing site which had received previous City approval.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.
V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project.

**Traffic and Circulation Measures:**

N/A

**Air Quality Measures:**

N/A

**Noise Measures:**

N/A

**Agricultural Land Measures:**

N/A

**Water Supply Measures:**

N/A

**Sanitary Sewer Service Measures:**

N/A

**Sensitive Wildlife and Plant Habitat Measures:**

N/A

**Archaeological or Historic Sites Measures:**

N/A

**Storm Drainage Measures:**

N/A

**Flooding and Water Quality Measures:**

N/A
Parks and Open Space Measures:
N/A

Schools Measures:
N/A

Police Services:
N/A

Fire Services:
N/A

Generation of Solid Waste
N/A

Generation of Hazardous Materials
N/A

Potential for Landslides and Seismic Activity
N/A

Energy
N/A

Planning and Land Use
N/A

Aesthetics
N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-221

A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY FROM JOSEPHINE CIPONERI, AS TRUSTEE OF THE JOSEPHINE CIPONERI 1999 TRUST AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE SYLVAN AVENUE STREET IMPROVEMENTS PROJECT

REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY LOCATED ON APN 077-046-079 (OWNER: JOSEPHINE CIPONERI, TRUSTEE OF THE JOSEPHINE CIPONERI 1999 TRUST)

WHEREAS, in accordance with the Modesto Urban Area General Plan, it is desirable and necessary for the City of Modesto to acquire a portion of real property and improvements to real property on APN 077-046-079 and commonly identified as 2500 Sylvan Avenue, 2512 Sylvan Avenue, and 2514 Sylvan Avenue and more particularly described and depicted in Exhibits “A”, “B”, and “C”, attached hereto and made a part hereof by reference, in order to implement the Sylvan Widening Project (the “Project”), and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19, of the Constitution of the State of California, and the California Eminent Domain Law, California Code of Civil Procedure Section 1230.010, et seq., and pursuant to Section 37350.5 of the Government Code of California, and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain, all of whom have been given a reasonable
opportunity to appear and be heard before the Modesto City Council on the following matters:

(a) Whether the public interest and necessity require the Project;
(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
(c) Whether the property sought to be acquired is necessary for the Project; and
(d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

WHEREAS, the hearing set out in the notice was held on April 26, 2005 at the time and place stated therein, and all interested parties were given an opportunity to be heard. Thereafter, the hearing was closed. Based upon the evidence presented, the Council by vote of two-thirds or more of its members, further FINDS, DETERMINES, RESOLVES AND ORDERS as follows:

1. The public interest and necessity require the Project;

2. The Project is planned and located in the manner, which will be most compatible with the greatest public good and the least private injury;

3. The taking of the fee simple title in and to the real property and improvements to real property more particularly described in said Exhibits "A", "B" and "C" is necessary for the Project;

4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property;

5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein have been complied with by the City of Modesto;

6. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and directed to institute and conduct to conclusion an action in
eminent domain for the acquisition of the estates and interests aforesaid and to take such action as it may deem advisable or necessary in connection therewith

7. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and empowered to deposit with the State Treasury Condemnation Fund the probable amount of compensation, based on an appraisal, and to apply to the Court for an order of prejudgment possession of the subject property for said public uses and purposes.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
EXHIBIT "A"

ALL that certain real property situate in the City of Modesto, County of Stanislaus, State of California and lying in a portion of the East Half of the Northeast Quarter of the Southwest Quarter of Section 11, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

BEGINNING at the Northwest corner of Parcel 1 as shown on that map filed in Book 37 of Parcel Maps at Page 75, Stanislaus County Records; thence South 89°40'28" East along the North line of said parcel 1 and the Southerly right-of-way line of Sylvan Avenue, a distance of 209.00 feet to the Northeast corner of said Parcel 1; thence South 00°32'58" East along the East line of said Parcel 1, a distance of 26.00 feet; thence North 89°40'28" West, a distance of 209.00 to a point on the West line of said Parcel 1; thence North 00°37'08" West along last said line, a distance of 26.00 feet to the Point of Beginning.

Containing 5,434 square feet more or less.
EXHIBIT “C”

The proposed acquisition includes land within the 26 foot strip necessary for the right-of-way (described in Exhibit “A” and depicted in Exhibit “B”) and buildings and improvements located thereon and on the remainder larger parcel consisting of the following improvements:

The detached 2,152 square foot single-family residence situated on the land being acquired and the remainder parcel commonly known as 2500 Sylvan Avenue;

A 1,900 square foot two-unit duplex structure situated on the land being acquired and the remainder parcel commonly known as 2512 Sylvan Avenue and 2514 Sylvan Avenue;

Yard improvements including concrete patios, wood fencing, brick barbeque, brick flowerbeds, and landscaping including trees, shrubs, bushes and flowers.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-222

A RESOLUTION AMENDING PASSENGER FARES FOR MODESTO AREA EXPRESS (MAX) BAY AREA RAPID TRANSIT (BART) COMMUTER EXPRESS SERVICE, RESTATING PASSENGER FARES FOR MAX EXPRESS, AND RESCINDING RESOLUTION NO. 2003-77

WHEREAS, MAX BART Commuter Express operates between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, this service began in July 1998 with one bus providing two round trips per day and was expanded to two buses and four round trips per day in February 2001, and

WHEREAS, the cost of operating this route is $206,000 per year and requires a subsidy of $101,000 per year, and

WHEREAS, this subsidy is a combination of City Local Transportation Fund (LTF) monies (80%) and Federal Transit Administration (FTA) funds (20%), and

WHEREAS, fares for this route were last raised in May 2003 by Resolution No. 2003-77 to the current level of $106.00 for a monthly pass, and

WHEREAS, increasing the MAX BART Commuter Express Fares to the recommended level will decrease the annual subsidy amount by $25,671, and

WHEREAS, the Council Economic Development Committee recommended approval of fare increases for the BART Commuter Express at its March 7, 2005 meeting, and
WHEREAS, a duly noticed public hearing was held by the Council on April 26, 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 BART Commuter Express services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fare increases for passengers riding on the MAX BART Commuter Express operating between Modesto and the Dublin/Pleasanton BART station be approved:

1. Full Month $130.00
2. Beginning the 8th of the month $100.00
3. Beginning the 15th of the month $67.00
4. Beginning the 22nd of the month $36.00
5. Half-Month Pass (1st - 15th of each month) $67.00
6. Round-trip $13.00
7. One-way $11.00

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the following fares are hereby restated for passengers riding on the MAX ACE Express operating between Modesto and the Manteca/Lathrop ACE Train station:

1. One-Way Trip $2.00
2. 20-Ride Ticket ($1.50 per one-way trip) $30.00
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 Resolution No. 2003-77 is 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 26th day of April 2005, by Councilmember Marsh, 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. 2005-223

A RESOLUTION SUPPORTING THE PURCHASE OF A NEW COMMUTER BUS FOR THE MODESTO AREA EXPRESS (MAX) BAY AREA RAPID TRANSIT (BART) COMMUTER EXPRESS SERVICE

WHEREAS, MAX BART Commuter Express operates between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, this service began in July 1998 with one bus providing two round trips per day and was expanded to two buses and four round trips per day in February 2001, and

WHEREAS, the purchase of a new bus has been planned and is contained in the City’s Capital Improvement Program, and

WHEREAS, this additional commuter bus would allow for maintenance of the other two commuter buses, while ensuring the comfort of our passengers, and

WHEREAS, the approximate cost of this bus is $475,000 and a CMAQ grant in the amount of $158,394 was received from StanCOG specifically for the purchase of this bus, and

WHEREAS, Federal Transit Administration (FTA) revenues and Local Transportation Fund (LTF) monies will fund the remaining cost of this bus purchase, and

WHEREAS, the Council Economic Development Committee recommended support of this bus purchase at its March 7, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of a new commuter bus for the MAX BART Commuter Express service be supported.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 2005, by Councilmember Marsh, 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. 2005-224

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT PROPOSALS FOR PRUNED REFUSE, LEAF, AND FORESTRY MATERIALS COLLECTION SERVICES, FOR A FIVE (5) YEAR PERIOD WITH AN OPTION TO RENEGOTIATE ONE (1) ADDITIONAL FIVE (5) YEAR PERIOD AND WITH AN OPTION TO PROVIDE A QUOTATION FOR COMPOSTING SERVICES

WHEREAS, the City of Modesto’s Public Works Department, Urban Forestry Division provides pruned refuse, leaf, and forestry materials collection to over 57,000 residential customers, and

WHEREAS, funding for the pruned refuse collection and a portion of the forestry materials collection is provided by City’s Wastewater Fund, and

WHEREAS, funding for leaf collection is provided by the City’s Storm Drain Fund, and

WHEREAS, the pre-eminent reason for seeking proposals from the private sector is to determine if the nexus for funding pruned refuse collection and a portion of the forestry materials collection out of the Wastewater Fund is no longer strong enough to continue such funding, and

WHEREAS, the leaf collection program is an adjunct to the pruned refuse collection program, and it would be inefficient and not cost-effective for the City to continue to perform leaf collection if pruned refuse collection and a portion of the forestry materials collection services are privatized, and

WHEREAS, under state law, pruned refuse, leaves, and forestry materials are considered “solid waste”, and
WHEREAS, the City has exclusive service agreements with three private sector collection companies for the collection of residential and commercial solid waste, and

WHEREAS, if the City privatizes the collection of these materials, provision of these services would be limited to these licensed companies, and

WHEREAS, at the July 13, 2004 Council meeting, the City Council adopted Resolution No. 2004-368 authorizing staff to negotiate with the City’s licensed solid waste collection companies to provide pruned refuse, forestry materials, and leaf collection services, and

WHEREAS, staff now desires to solicit a Request for Proposals (RFP) for Pruned Refuse, Leaf, and Forestry Materials Collection Services for a five (5) year period, with an option to renegotiate for an additional five (5) year period, and with an Option to Provide a Quotation for Composting Services, and

WHEREAS, the Economic Development Committee met on February 7, 2005, and supported the recommendation to solicit Requests for Proposals for Pruned Refuse, Leaf, and Forestry Materials Collection Services, with an Option to Provide a Quotation for Composting Services, and

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

WHEREAS, the issuance of a formal Request for Proposal for Pruned Refuse, Leaf, and Forestry Materials Collection Services, with an Option to Provide a Quotation for Composting Services will conform to Modesto Municipal Code Section 8-3.203,
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for Pruned Refuse, Leaf, and Forestry Materials Collection Services, for a five (5) year period, with an option to renegotiate for an additional five (5) year period, and with an Option to Provide a Quotation for Composting Services, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, they shall be evaluated and analyzed based on stated evaluation criteria and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of April 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
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
JAMES E. LEONARD FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, JAMES E. LEONARD was appointed a member of the Airport
Advisory Committee on March 23, 2004, and

WHEREAS, JAMES E. LEONARD has tendered his resignation from the
aforementioned committee, and

WHEREAS, JAMES E. LEONARD 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 JAMES E.
LEONARD from the Airport Advisory Committee hereby is accepted with regret.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:
By: ____________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-226

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR NATIONAL ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM FUNDS IN THE AMOUNT OF $390,000 AND TO EXECUTE THE NECESSARY GRANT APPLICATION DOCUMENTS

WHEREAS, the Congress, under Public Law 107-73, has authorized the establishment of the Federal Fire Protection and Control Act and has appropriated $650 million dollars to carry out the Assistance to Firefighter’s Grant Program, and

WHEREAS, the Office for Domestic Preparedness is responsible for administration of the program, setting up necessary rules and procedures governing application by local agencies under the program, and

WHEREAS, said adopted procedures established by the Office for Domestic Preparedness require the applicant to provide 20% local matching funds, and

WHEREAS, the Fire Department has concluded that an application in the category of Firefighting Vehicle Acquisition Program is the most needed and the most likely to be successful, and

WHEREAS, the City of Modesto and Modesto Fire Department qualify to submit the grant application,

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

1. Authorizes the filing of an application for Assistance to Firefighter’s Grant Program funds in the amount of $390,000.
2. Certifies that said agency has matching funds from the following source: Fire Department Operating Budget, and can finance 100 percent of the project, 80% of which will be reimbursed.

3. Authorizes the City Manager, or his designee, as agent of the City to execute and submit the necessary grant application documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May 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: 

Michael D. Milich, City Attorney

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-227

A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO TRANSFER FUNDS FROM THE ASSET FORFEITURE TRUST FUND TO THE GENERAL FUND - POLICE OPERATIONS FOR THE PURCHASE OF THREE CANINES

WHEREAS, there will be three police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is $20,000, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2004/05 Annual Budget is hereby amended as indicated below:

Appropriate:
To: 0100-190-1961-5000 $20,000 Police Field Operations

Revenue:
From: 0100-190-1961-7202 $20,000 Seized Forfeitures

BE IT FURTHER RESOLVED that the Acting Finance Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May 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

JEAN ZAHR City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-228

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND YOSEMITE COMMUNITY COLLEGE DISTRICT FOR THE CITY TO PROVIDE ONE POLICE SERGEANT FROM THE MODESTO POLICE DEPARTMENT TO SERVE AS THE TRAINING CENTER SERGEANT AT THE REGIONAL ACADEMY TRAINING CENTER AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the Yosemite Community College District (YCCD) has requested a Modesto Police Sergeant to fill its Academy Coordinator position for the regular basic course, and

WHEREAS, the Regular Basic Course is a complex curriculum of instructional units and testing requirements, and

WHEREAS, the task of managing the course is complicated by the frequency of instructional and testing changes, and

WHEREAS, the Academy Coordinator’s qualifications and responsibilities include demonstrated ability to do law enforcement training and experience to coordinate the Regular Basic Course, and

WHEREAS, the position requires experience in supervising personnel, and in budgeting, administration and operations, and

WHEREAS, the term of the agreement is five years, commencing on July 1, 2005, and

WHEREAS, YCCD will reimburse the City of Modesto for the total cost—salary and benefits, cellular telephone and computer costs—of one Modesto Police Sergeant, and
WHEREAS, the Finance Committee unanimously endorsed this action at its meeting of February 14, 2005, and the Safety and Communities Committee unanimously endorsed this action at its meeting of February 28, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts and approves the Agreement between the City of Modesto and the Yosemite Community College District for the provision of one Modesto Police Sergeant to serve as Academy Coordinator of the Police Academy.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-229

A RESOLUTION APPROVING THE ADDITION OF ONE NEW POLICE SERGEANT POSITION IN THE MODESTO POLICE DEPARTMENT TO SERVE AS THE ACADEMY COORDINATOR AT THE REGIONAL ACADEMY TRAINING CENTER

WHEREAS, the Yosemite Community College District (YCCD) has requested a Modesto Police Sergeant to fill its Academy Coordinator position for the regular basic course, and

WHEREAS, the term of the agreement is five years, commencing on July 1, 2005, and

WHEREAS, YCCD will reimburse the City of Modesto for the total cost – salary and benefits, cellular telephone and computer costs – of one Modesto Police Sergeant, and

WHEREAS, this action is fiscally neutral, and

WHEREAS, the Finance Committee unanimously endorsed this action at its meeting of February 14, 2005, and the Safety and Communities Committee unanimously endorsed this action at its meeting of February 28, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves one new Police Sergeant position to the Modesto Police Department’s authorized position allocation to serve as the Academy Coordinator at the Regional Academy Training Center.

BE IT FURTHER RESOLVED that City staff is hereby authorized to promote one new Police Sergeant.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Council member 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-230

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE FURNISHING OF
PUMP STATION REJUVENATION SERVICES, FOR A TWO (2) YEAR
AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN
ESTIMATED ANNUAL COST OF $328,737

WHEREAS, the City of Modesto owns and operates 113 water well sites, which have a producing capacity of 109.97 million gallons per day (MGD) of water, and

WHEREAS, this water system services approximately 76,000 customer locations, for a total of 280,000 people, and

WHEREAS, when a pump station begins to deteriorate it starts to lose its pumping efficiency, and

WHEREAS, lower pumping efficiency usually equates to a drop in water pressure prompting low-pressure alarms and a reduction in fire suppression capabilities, and

WHEREAS, ineffective fire suppression capabilities can pose a potential threat to life and property, thus any drop in water pressure, due to pump deterioration, could potentially have catastrophic consequences, and

WHEREAS, the Public Works Department, Water Division maintains the 113 water well sites, keeping the integrity of the pump stations at a high level, in order to better service the City’s customers, and

WHEREAS, by obtaining annual pricing for pump station rejuvenation services the City eliminates the need to bid this type of service every time there is a required repair, and

WHEREAS, needed repairs can be made in two (2) or three (3) days instead of two (2) or more weeks, and
WHEREAS, this is extremely important in the summer months, and
WHEREAS, funding for pump station rejuvenation services will come from the Water Enterprise Fund, which derives its funding from user fees, and
WHEREAS, contracts may be awarded to more than one (1) company in order to provide backup, or in case the “primary” contractor is unable to meet the City’s needs, and
WHEREAS, a secondary or third company could be awarded a specific job only if the primary contractor is unable to perform the service, or if the primary contractor is unable to complete the specific job within the time frame required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City, and
WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and
WHEREAS, the issuance of a formal Request for Bid for the furnishing of pump station rejuvenation services will conform to Modesto Municipal Code Section 8-3.203,
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May 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
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR THE FURNISHING OF WELL REHABILITATION SERVICES, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN ESTIMATED ANNUAL COST OF $169,987

WHEREAS, the City of Modesto owns and operates 113 water well sites, which have a producing capacity of 109.97 million gallons per day (MGD) of water, and

WHEREAS, this water system services approximately 76,000 customer locations, for a total of 280,000 people, and

WHEREAS, many of the City’s wells are old and starting to deteriorate, and

WHEREAS, these old wells were designed with perforations in the walls to receive water from a variety of sources, and

WHEREAS, as the wells age many of the wall perforations become plugged and no longer function, and

WHEREAS, this reduces the water supply available at the well, and

WHEREAS, the Public Works Department, Water Division maintains the 113 water well sites, and

WHEREAS, wells with reduced water supply are inspected via video to verify the integrity of the well, but are only rehabilitated when the supply levels reach a critically low level, and

WHEREAS, by contracting for well rehabilitation services, the Water Division will be able to proactively rehabilitate the aged wells before they reach a critical level, and
WHEREAS, funding for well rehabilitation services will come from the Water Enterprise Fund, which derives its funding from user fees, and

WHEREAS, contracts may be awarded to more than one (1) company in order to provide backup, or in case the “primary” contractor is unable to meet the City’s needs, and

WHEREAS, a secondary or third company could be awarded a specific job only if the primary contractor is unable to perform the service, or if the primary contractor is unable to complete the specific job within the time frame required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the furnishing of well rehabilitation services will conform to Modesto Municipal Code Section 8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the furnishing of well rehabilitation services, for a two (2) year agreement, with three (3) one-year extension options, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.
SECTION 2. After the sealed bids are opened, they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May 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
A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE STANISLAUS COUNCIL OF GOVERNMENTS FOR FEDERAL CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS FOR VARIOUS PROJECTS RELATING TO THE REDUCTION OF AIR POLLUTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS TO OBTAIN SAID FUNDING

WHEREAS, on March 9, 2005, the Stanislaus Council of Governments (StanCOG) Policy Board approved guidelines to allocate Congestion Mitigation and Air Quality (CMAQ) program funds to eligible proposers for the Federal Fiscal Year 2005/06 and 2006/07, and

WHEREAS, on March 10, 2005, StanCOG staff distributed a call for CMAQ project nominations to local jurisdictions, further stipulating that $7,590,718 of CMAQ funding was available for distribution among local agencies County-wide, and

WHEREAS, pursuant to StanCOG guidelines for distribution to local governments in Stanislaus County, including an estimate of funds available to each, the City of Modesto anticipates $2,241,909 in funds for eligible projects of its own choosing, and can also compete for as much as $5.34 million available for projects that do the most to reduce air pollution in the county, and

WHEREAS, City staff has identified 15 projects for funding which will contribute to the attainment of national ambient air quality standards, and

WHEREAS, the Economic Development Committee reviewed said projects generally at its meeting on April 11, 2005, and recommended approval of the projects for CMAQ funding, and
WHEREAS, CMAQ grants require an 11.47% local match of funds, and
WHEREAS, the match required for many of the projects may be funded out of Local Gas Tax Funds, Local Transportation Funds, or Transit Fare Box Revenues, and
WHEREAS, applications for each project are required to be submitted to the Stanislaus Council of Governments by May 19, 2005, and
WHEREAS, the Stanislaus Council of Governments will make a recommendation to the StanCOG Policy Board for project funding,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his authorized designee, to apply to the Stanislaus Council of Governments for Federal Congestion Mitigation and Air Quality (CMAQ) funds to be used for various projects set forth in the attached Exhibit “A”, recommended by City staff which will reduce air pollution.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute all applications and documents necessary to obtain said funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd 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: _[Signature]_ JeAN ZAHR City Clerk

APPROVED AS TO FORM:

By: _[Signature]_ MICHAEL D. MILICH, City Attorney
### Proposed 2005/06 & 2006/07 CMAQ Projects

<table>
<thead>
<tr>
<th>General Improvements</th>
<th>Total Cost</th>
<th>CMAQ</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-turn Lane - W/B Orangeburg/McHenry</td>
<td>$350,000</td>
<td>$309,855</td>
<td>$40,145</td>
</tr>
<tr>
<td>Right-turn Lane - SB Sisk to Beckwith to NB 99 Ramps</td>
<td>$1,100,000</td>
<td>$973,830</td>
<td>$126,170</td>
</tr>
<tr>
<td>Right-turn Lane - SB Sisk to Carpenter to NB 99 Ramps</td>
<td>$1,100,000</td>
<td>$973,830</td>
<td>$126,170</td>
</tr>
<tr>
<td>Lighted Crosswalks</td>
<td>$250,000</td>
<td>$221,325</td>
<td>$28,675</td>
</tr>
<tr>
<td>2nd Lane for S/B 99 Off-ramp at Standiford</td>
<td>$400,000</td>
<td>$354,120</td>
<td>$45,880</td>
</tr>
<tr>
<td>Right-turn Lane - SB Sisk to Pelandale to NB 99</td>
<td>$500,000</td>
<td>$442,650</td>
<td>$57,350</td>
</tr>
<tr>
<td>Changeable Message Signs</td>
<td>$100,000</td>
<td>$88,530</td>
<td>$11,470</td>
</tr>
<tr>
<td>Left-turn Lane - Extension</td>
<td>$250,000</td>
<td>$221,325</td>
<td>$28,675</td>
</tr>
<tr>
<td>WB Briggsmore East of McHenry</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Signals</th>
<th>Total Cost</th>
<th>CMAQ</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Signals-2006 Claus/Sylvan Floyd/Lincoln Oak, Carpenter/Hatch, Coffee/Claratina, Tully/Stoddard</td>
<td>$1,200,000</td>
<td>$1,062,360</td>
<td>$137,640</td>
</tr>
<tr>
<td>Upgrade Signals 2006 Briggsmore/Carver</td>
<td>$200,000</td>
<td>$177,060</td>
<td>$22,940</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ATMS</th>
<th>Total Cost</th>
<th>CMAQ</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiber - Pelandale CCTV Cameras</td>
<td>$550,000</td>
<td>$486,915</td>
<td>$63,085</td>
</tr>
<tr>
<td>Tully to Coffee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fiber - 5th and 6th Streets CCTV Cameras</td>
<td>$550,000</td>
<td>$575,445</td>
<td>$74,555</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Roundabouts</th>
<th>Total Cost</th>
<th>CMAQ</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collector Roundabouts - Three Locations</td>
<td>$675,000</td>
<td>$597,578</td>
<td>$77,423</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Transit</th>
<th>Total Cost</th>
<th>CMAQ</th>
<th>City Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhaust Scrubbers</td>
<td>$150,000</td>
<td>$132,795</td>
<td>$17,205</td>
</tr>
<tr>
<td>Employee Rideshare</td>
<td>$120,000</td>
<td>$106,236</td>
<td>$13,764</td>
</tr>
</tbody>
</table>

**Total Project Costs** | $7,595,000 | $6,413,999 | $831,002 |

**CMAQ Formula** | $2,241,909 |
**CMAQ Competitive** | $3,744,166 |
**CMAQ Discretionary** | $1,604,643 |

**Total CMAQ Funds** | $7,590,718 |
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-232

A RESOLUTION AMENDING THE
FISCAL YEAR 2004-2005 ANNUAL BUDGET

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that appropriations, 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 3rd day of May 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
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Lisa Forester
Telephone No.: 577-5480
Department: Parks, Recreation & Neighborhoods
Fund Title: Golf

Council Action Date: APR 11 2005
Resolution Number: 

FY: 04-05
Transfer No. 

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>6600-800-8000-8003</td>
<td>6600R</td>
<td></td>
<td>($6,000)</td>
<td>($6,000)</td>
<td>Golf Fund, Contingency Reserve</td>
</tr>
<tr>
<td>1350-800-8000-8003</td>
<td>1350R</td>
<td>$6,000</td>
<td></td>
<td>$6,000</td>
<td>Parks CFF Fund, Contingency Reserve</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund-Agcy-Org-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
</tr>
</thead>
<tbody>
<tr>
<td>6600-700-7000-7135</td>
<td>6600G</td>
<td>$6,000</td>
<td></td>
<td>$6,000</td>
<td>Transfer to Parks CFF Fund</td>
</tr>
<tr>
<td>1350-700-7000-9660</td>
<td></td>
<td>$6,000</td>
<td></td>
<td>$6,000</td>
<td>Transfer from Golf Fund</td>
</tr>
</tbody>
</table>

COMMENTS/JUSTIFICATION

In 1998, expenses for the golf cart shed were taken from this fund, but should have been taken from the golf fund. This was found when Maze and Associates performed a performance review of the CFF funds. Because the golf course is not eligible for CFF, this is not an eligible expense.

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Jana Coons/Tracie Madison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone No.:</td>
<td>1-5855</td>
</tr>
<tr>
<td>Department:</td>
<td>Public Works</td>
</tr>
<tr>
<td>Fund Title:</td>
<td>Storm Drain</td>
</tr>
</tbody>
</table>

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

April Monthly Adjustments

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
</tr>
</thead>
</table>

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM
05-6280-800-8000-8003 6280R  ($12,000)  ($12,000)  Storm Drain Contingency

TO
05-6280-480-5314-0235 5314C  $227,885  $12,000  $234,885  Professional Svc

COMMENTS/JUSTIFICATION

On 4/4/05 an appropriation transfer was completed to move $62,000 from identified operational savings, to the Storm Drain Reserves to be used toward the NPDES Permit. Only $50,000 was needed toward the permit the other $12,000 was to be used in the Operational Organization - Storm Drain Administration (5314) to complete existing contracts such a Godbe and Larry Walker and Assoc.
This adjustment is to move the $12,000 from the reserves back into operational org 5314

AUTHORIZED (check if required)

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

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

CITY MANAGER
(Transfers between Budgeted Activities of Departments within Funds)
(Appropriation of Unbudgeted Dept Revenues)
(Salary lines movement in or out)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
Telephone No.: 1-5855  
Department: Finance  
Fund Title: Fire CFF  
Council Action Date:  
Resolution Number:  
FY: 04-05  
Transfer No.  
April Monthly Adjustment

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

DEPARTMENTAL REVENUES
FROM
TO

APPROPRIATIONS
FROM  
05-1320-800-8000-8003  1320R ($500,000)  ($50,579)  ($550,579)  Transfer to begin payment of loan  
TO  
05-1300-800-8000-8003  1300R ($490,763)  $50,579  ($440,184)  Transfer to begin repayment of loan

TRANSFERS BETWEEN FUNDS
FROM  
05-1320-701-7001-7130  M174L  $50,579  $50,579  Repayment of M174 Loan  
TO  
05-1300-701-7001-9132  $50,579  $50,579  Repayment of M174 Loan

COMMENTS/JUSTIFICATION
On April 6, 2004 Council approved an loan from fund 1300 to 1320 for the completion of Fire Station 11 (M174) 
At that time, an amortization schedule was set up, but no transfer was put in place to allow the payment 
to be made. Payments are set to begin in FY05, this adjustment allows the transfer to be put in the Financial System

<table>
<thead>
<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) ( Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Judy Cook 4-12-05
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison
Telephone No.: 1-5855
Department: Finance
Fund Title: Special Fund for Capital Outlay

Council Action Date: _______________ Resolution Number: _______________

Telephone No.: 1-5855

DEPARTMENTAL REVENUES
FROM
TO

APPROPRIATIONS
FROM
05-1300-800-8000-8003 1300R. ($440,184) ($50,579) ($490,763) Special Fund Capital Contingency
TO
05-0100-800-8000-8003 0100R. $50,579 $50,579 General Fund Contingency

TRANSFERS BETWEEN FUNDS
FROM
05-1300-700-7000-7010 1300G $50,579 $50,579 General Transfer to the GF
TO
05-0100-700-7000-9130 $50,579 $50,579 General Transfer to the GF

COMMENTS/JUSTIFICATION
In June 2004 Council approved a loan from the Special Fund for Capital Outlay in the amount of $238,495 for the completion of Fire Station 11 located in the Fire CFF Fund. This resulted in a reduction to another Fire Project N412 (Fire Station 1 Retrofit). The repayment of that loan is to fund 1300. Since then it has been determined that the work to retrofit Fire Station 1 exceeds the existing funds, therefore the project was closed and the available funds returned to the General Fund for reallocation. This transfer will allow the loan payback to also return to the General Fund over the next 5 years where the funds originated from.

Signature: Judith Lay
Date: 4-12-05

AUTHORIZATION (check if required) SIGNATURE DATE
DEPARTMENT DIRECTOR or
AUTHORIZED ASSISTANT
(Allocation of Dept Appr to Line-Item Level)

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

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

Contact Person: Tracie Madison  
Telephone No.: 1-5855  
Department: Finance  
Fund Title: Special Fund for Capital Outlay

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

**DEPARTMENTAL REVENUES**

FROM

TO

**APPROPRIATIONS**

FROM

05-1300-800-8000-8003  | 1300R  | $9,237  | ($635,307)  | ($626,070)  | Special Fund for Capital Contingency

TO

05-0100-800-8000-8003  | 0100R  | $635,307  | $635,307  | General Fund Contingency

**TRANSFERS BETWEEN FUNDS**

FROM

MY-1300-700-N412-7010  | N412G  | $635,307  | $635,307  | Transfer back of funds

TO

MY-0100-700-N412-9130  |        | $635,307  | $635,307  | Transfer back of funds

**COMMENTS/JUSTIFICATION**

This adjustment is return the funds that the General Fund sent to the Station 1 Rehab/Retro Project. This project, 1300-180-N412 Station 1 Rehab has been closed. It was determined the project could not be completed at current funding levels. All funds will return to the General Fund where they can be reallocated.

**AUTHORIZATION (check if required)**

DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT

(Allocation of Dept Appr to Line-Item Level)

FINANCE DIRECTOR

(Transfers to/from Internal Service Charges)

(All items requiring City Manager's Approval)

CITY MANAGER

(Transfers between Budgeted Activities of Departments within Funds)

(Appropriation of Unbudgeted Dept Revenues)

(Transfers into Personnel Services)

SIGNATURE: Judith Pay  
DATE: 4-12-05
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison
Telephone No.: 1-5855
Department: Finance
Fund Title: RDA Master Plan

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

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

DEPARTMENTAL REVENUES
FROM
TO

APPROPRIATIONS
FROM
MY-1300-180-N412-6040 N412 $386,505 ($77,254) ($309,251) Station 1 Retrofit
05-1300-800-8000-8003 1300R ($77,254) ($77,254) Special Fund Capital Contingency
05-9080-800-8000-8003 9080R ($77,254) ($77,254) RDA Master Plan Contingency
TO
05-1300-800-8000-8003 1300R $77,254 $77,254 Special Fund Capital Contingency
05-9080-800-8000-8003 9080R $77,254 $77,254 RDA Master Plan Contingency
MY-9080-140-K871-6010 K871 $77,254 $77,254 Update EIR

TRANSFERS BETWEEN FUNDS
FROM
MY-1300-700-K871-7980 K871 $77,254 $77,254 Transfer to RDA Master Plan
TO
MY-9080-700-K871-9130 $77,254 $77,254 Transfer to RDA Master Plan

COMMENTS/JUSTIFICATION
July 6, 2004 the RDA approved (10-2004) a complete update to the RDA Master Plan and the EIR for the Redevelopment project Area. An additional item was added to the overall Master Plan called "Safety Campus Concept Master Plan" the funding was to be provided by the Fire Dept Project N412 Fire Station 1 Retrofit. It has since been determined that there is not enough funds available to complete project N412 and the project was closed and the funds returned to the General Fund. However the encumbrance remains in fund 1300. This adjustment will move the encumbrance and budget to 9080-140-K871 to allow the RDA to continue with their Master Plan and EIR updates.

AUTHORIZATION (check if required) SIGNATURE DATE
DEPARTMENT DIRECTOR or
AUTHORIZED ASSISTANT
(Allocation of Dept Appr to Line-Item Level)
FINANCE DIRECTOR
(Transfers to/from Internal Service Charges)
(All items requiring City Manager's Approval)
CITY MANAGER
(Transfers between Budgeted Activities of Departments within Funds)
(Appropriation of Unbudgeted Dept Revenues)
(Transfers into Personnel Services)

Judith Day 4-12-05
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
Telephone No.: 1-5855  
Department: Finance  
Fund Title: LTF

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

DEPARTMENTAL REVENUES

FROM

TO

APPROPRIATIONS

FROM 05-0520-800-8000-8003  0520R  ($80,000)  ($80,000)  LTF Non-Motorized Contingency

TO 05-0700-800-8000-8003  0700R  $1,079,846  $80,000  $1,159,846  Gas Tax Contingency

TRANSFERS BETWEEN FUNDS

FROM 05-0520-700-4724-7070  0520G  $80,000  $80,000  $160,000  Transfer to Curbs, Sidewalks, Gutters

TO 05-0700-700-4724-9052  $80,000  $80,000  $160,000  Transfer to Curbs, Sidewalks, Gutters

COMMENTS/JUSTIFICATION

This adjustment is to increase the transfer from the Non-Motorized Local Transportation Fund from $80,000 to $160,000. The LTF claim submitted to StanCog, for FY04-05 was for $160,000. This adjustment would allow the budget to match the claim.

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

CITY MANAGER  
(Transfers between Budgeted Activities of Departments within Funds)  
(Appropriation of Unbudgeted Dept Revenues)  
(Transfers into Personnel Services)
A RESOLUTION APPOINTING JASON K. HOLLINGSWORTH TO THE
COMMUNITY QUALITIES FORUM

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

WHEREAS, Councilmember Will O'Bryant has recommended JASON K. HOLLINGSWORTH as his selection to the Community Qualities Forum.

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

SECTION 1. JASON K. HOLLINGSWORTH is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 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: JEN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-235

A RESOLUTION DIRECTING THE CITY CLERK TO CONDUCT
THE DECEMBER 13, 2005 RUN-OFF ELECTION, IF NEEDED, BY MAIL

WHEREAS, in the event that no candidate is elected by a majority in the
November 8, 2005 election, the two candidates receiving the most votes will run against
one another in a December run-off election; and

WHEREAS, the City Council has chosen the City Clerk to conduct the City’s run-off election in December 2005, and

WHEREAS, according to the Elections Code, the County Elections official has 28 days to certify the November Municipal Election, which falls on December 6, 2005, making it impossible to have sufficient time to hire precinct workers and establish polling locations; and

WHEREAS, the City entered into a contract with Martin & Chapman for election services, for a cost of $105,059.37, for election services to assist with the City Clerk in conducting the December run-off using an all-mail ballot process; and

WHEREAS, the City Council must indicate its intention to conduct the December 13, 2005 run-off election, if needed, by mail.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that if a run-off election is required as a result of the Regular Municipal Election to be held on November 8, 2005, said run-off election shall be held by mail and scheduled on December 13, 2005.
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 Hawn, 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 [Signature]
MICHAEL D. MILICH, City Attorney

ATTEST: [Signature]
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-236

A RESOLUTION APPROVING A CONTRACT WITH MARTIN & CHAPMAN OF ANAHEIM, CALIFORNIA FOR PROFESSIONAL SERVICES TO CONDUCT THE DECEMBER 13, 2005 CITY COUNCIL RUN-OFF ELECTION USING AN ALL MAIL BALLOT IN THE AMOUNT OF $105,059.57 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, at the April 25, 2005 Finance Committee Meeting, the Finance Committee recommended the City Clerk conduct the December 13, 2005 run-off election and recommended that a contract be authorized with Martin & Chapman for election services; and

WHEREAS, Martin & Chapman has agreed to provide the services outlined in Exhibit “A” attached hereto and incorporated herein by reference in the amount of $105,059.57; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of contract to Martin & Chapman for professional services to conduct the December 13, 2005 run-off election using an all mail ballot.

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 10th day of May 2005, by Councilmember Hawn, 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. 2005-237

A RESOLUTION ADOPTING RUN-OFF ELECTION PROCEDURES AND DIRECTING THE CITY CLERK TO FOLLOW THE PROCEDURES IN CONDUCTING ANY REQUIRED RUN-OFF ELECTION FOLLOWING THE REGULAR MUNICIPAL ELECTION IN NOVEMBER, 2005, AND DIRECTING THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE EVENT THAT THE DECEMBER, 2005 RUN-OFF ELECTION "FAILS"

WHEREAS, after considering the options of whether the County Clerk-Recorder or the City Clerk should conduct the December 13, 2005 run-off election, the Finance Committee at its April 25, 2005 meeting recommended to the City Council that the City Clerk conduct the run-off; and

WHEREAS, the City Council adopted Resolution No. 2005-235 directing the City Clerk to conduct the December 13, 2005 run-off election, and

WHEREAS, the City Council authorized a contract with Martin & Chapman for election services to assist the City Clerk in conducting the 2005 run-off election; and

WHEREAS, it is prudent and necessary for the City Council to approve run-off election procedures to guide the City Clerk in conducting the December run-off election in the event one is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the run-off election procedures set forth in the staff report to the City Council dated May 10, 2005, are hereby adopted and the City Clerk is authorized and directed to follow said procedures in conducting the run-off election, and further, the City Attorney is directed to file the litigation described in said staff report in the event the December, 2005, run-off election "fails." (A copy of the staff report is attached as Exhibit "A" and incorporated herein by reference.)
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Hawn, 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:
TO: Mayor and City Council
FROM: Jean Zahr, City Clerk
SUBJECT: December 2005 Run-Off Election

CONTACT: Jean Zahr, jzahr@modestogov.com, (209) 577-5396

RECOMMENDED COUNCIL ACTION

1. Resolution approving run-off election procedures and directing the City Clerk to follow the procedures in conducting any required run-off election following the regular municipal election in November 2005, and directing the City Attorney to file an action in Superior Court to do the following in the event that the December 2005, run-off election “fails;” (1) obtain an order prohibiting the City Clerk from canvassing the December 13, 2005 run-off election, (2) declare the December 13, 2005, run-off election nullified, and (3) request the Court to retain jurisdiction until the run-off election results are certified.

2. Resolution calling for a special election to be held on January 31, 2006 for the purpose of holding a run-off election that might otherwise have been held on December 13, 2005 in the event the December 13, 2005, run-off election “fails.”

BACKGROUND

The City Council has directed the City Clerk to conduct the December 13, 2005 run-off election.

The County Clerk-Recorder will be conducting the November 8, 2005 Municipal Election and it is anticipated that the office will use the entire 28-day canvassing period allowed under the law for that election. In the event the full 28-day period allowed by law is utilized, there will not be sufficient time to mail the run-off ballots to voters 10 days prior to the run-off date as required by the Elections Code. It is therefore recommended that the City Council approve the following run-off election procedures:
SELECTION OF RUN-OFF CANDIDATES:

- Establish November 18, 2005, at 5:00 p.m. as the date and time when the top two candidates will be chosen for purposes of printing the run-off ballots in those races where it appears that a run-off will be necessary. In those races where any candidate has more than 50% of the votes cast as of that date and time, no run-off ballots will be printed. The determinations provided for in this paragraph will be made based on the vote tabulation printed by the County Elections Office at that date and time.

- Immediately after the above determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.

- Prior to November 18, 2005, the City shall have caused the necessary mail ballot envelopes and any other election supplies to have been printed utilizing the services of the election supplier previously chosen by the City Council as set forth in Resolution No. 2005-______

- In the event the County Clerk-Recorder does not utilize the full 28-day canvassing period and the certified election results show that the incorrect names were chosen pursuant to the procedure set forth above, then the following action shall be taken depending on at what point in the process the canvass is made:
  
  ♦ If the canvass is made prior to the mailing of the ballots then, provided there is sufficient time in the opinion of the election supplier, the City Clerk shall request an emergency reprint and incur any necessary additional cost and mail out the reprinted ballots prior to the 10-day deadline mandated by state law, or if there is not sufficient time to meet the 10-day deadline, the election shall be deemed to have “failed” and the City Attorney shall proceed with the litigation outlined below.

  ♦ If the canvass of the County Clerk-Recorder shows that the incorrect names were chosen pursuant to the procedure outlined above and the ballots have already been mailed, then the run-off shall be deemed to have “failed,” and the City Attorney shall proceed with the litigation outlined below.

LITIGATION:

- In the event said run-off is deemed to have “failed” pursuant to these procedures, then the City Attorney is hereby directed to file an action in Superior Court to do the following:

  ♦ Obtain an order prohibiting the City Clerk from canvassing the December 13, 2005, run-off election.

  ♦ Declare the December 13, 2005, run-off election nullified.
Request the Court to retain jurisdiction until the run-off election results are certified

DECISION TREE:

• Pursuant to these procedures there are two (2) possible scenarios which are summarized in the attached “Decision Tree.”

• Pursuant to the procedures set forth above, if the City Clerk has printed and mailed ballots with incorrect names chosen, it will be necessary to call a special election for the purpose of holding the run-off. The agreed upon date to hold an election with Martin and Chapman is January 31, 2006. This date will allow adequate time to reprint and mail new ballots. It is recommended that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

In order to avoid allegations of conflict of interest, it is recommended that Councilmembers Jackman, Keating and O’Bryant abstain from voting on this matter. The precedent for this is the fact that Councilmembers Friedman and Smith abstained during actions taken related to the “failure” of the 2001 run-off election, and Mayor Sabatino and Councilmember Conrad abstained from voting on this matter during actions related to the 2003 run-off election procedures.

FISCAL IMPACT

If a special run-off election is required it is estimated that an additional $200,000 will be needed to cover costs.

STEPS FOLLOWING APPROVAL

These procedures will be forwarded to Martin & Chapman and the County Clerk-Recorder.

Prepared and Submitted By: Jean Zahr, City Clerk, jzahr@modestogov.com; 577-5396

cc: George Britton, City Manager Mike Milich, City Attorney

Attachments: Resolution Adopting Run-Off Procedures Resolution Calling for a Special Election Decision Tree
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-238

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON JANUARY 31, 2006 FOR THE PURPOSE OF HOLDING A RUN-OFF ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR DECEMBER 13, 2005

WHEREAS, in the event the December run-off election “fails,” it will be necessary to reschedule the run-off election; and

WHEREAS, the City Council determines that the run-off election should be held on the 5th Tuesday in January 2006.

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

1. That the City Council orders the City Clerk to submit the run-off election previously scheduled for December 13, 2005, to the voters on January 31, 2006.

2. The City Council hereby requests Martin & Chapman to provide election services for the purpose of holding a run-off election that was previously scheduled for December 13, 2005, to elect members of Council for Chairs 2, 4 and 5.

3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

4. This resolution shall only be effective in the event incorrect names for the run-off ballots were chosen; and, the Superior Court issues an Order prohibiting the City Clerk from canvassing the December 13, 2005, run-off election; and, the Superior Court issues an Order nullifying the December 13, 2005, run-off election.
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 Hawn, 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. 2005-239

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF FIVE (5) PRE-CAST CEMENT VAULTS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, FOR AN ESTIMATED COST OF $66,000

WHEREAS, in 1995, the Del Este Water Company and the City of Modesto partnered with the Modesto Irrigation District to introduce treated surface water from the Modesto Reservoir into the Modesto water systems, and

WHEREAS, this project was accomplished by constructing a very long transmission main with thirty-one (31) MID turnouts strategically located throughout the system, and

WHEREAS, once the Del Este Water Company and the City of Modesto water systems merged, the Public Works Department, Water Division began tying the two (2) systems together, using a mixture of well water and surface water, and

WHEREAS, the Water Division is currently faced with the large task of determining the best method of utilizing the water supplies that are available to the City, and

WHEREAS, currently there is no control mechanism in place to account for the distribution of MID water, and

WHEREAS, by installing pressure-flow control valves on MID turnouts, the Water Division can place water where it is needed the most, and

WHEREAS, by the Resolution No. 2005-240, adopted on May 10, 2005, the Purchasing Supervisor has requested authorization to solicit Request for Bids to purchase
five (5) pressure-flow control valves to be installed on the east side of town, next to the
MID terminal reservoir tanks, and

WHEREAS, the purchase of these control valves will require the purchase of five
(5) new pre-cast vaults to house them in, and

WHEREAS, the completion of this project will allow the Water Division the
ability to control the placement of water from this system for the City, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all
purchases, which meet or exceed $50,000 for material, equipment or contractual services
to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of five (5)
pre-cast cement vaults will conform to Modesto Municipal Code Section
8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive
sealed bids for the purchase of five (5) pre-cast cement vaults, to be opened in the office
of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be
directed to give notice inviting such sealed bids in the time, form, and manner provided
by law.

SECTION 2. After the sealed bids are opened, they shall be tabulated and
analyzed by the Purchasing Division and a report submitted to Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Hawn, 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 Milich
MICHAEL D. MILICH, City Attorney
WHEREAS, in 1995, the Del Este Water Company and the City of Modesto partnered with the Modesto Irrigation District to introduce treated surface water from the Modesto Reservoir into the Modesto water systems, and

WHEREAS, this project was accomplished by constructing a very long transmission main with thirty-one (31) MID turnouts strategically located throughout the system, and

WHEREAS, once the Del Este Water Company and the City of Modesto water systems merged, the Public Works Department, Water Division began tying the two (2) systems together, using a mixture of well water and surface water, and

WHEREAS, the Water Division is currently faced with the large task of determining the best method of utilizing the water supplies that are available to the City, and

WHEREAS, currently there is no control mechanism in place to account for the distribution of MID water, and

WHEREAS, by installing pressure-flow control valves on MID turnouts, the Water Division can place water where it is needed the most, and

WHEREAS, the Water Division is recommending that five (5) pressure-flow control valves be installed on the east side of town, next to the MID terminal reservoir tanks, and
WHEREAS, the completion of this project will allow the Water Division the ability to control the placement of water from this system for the City, and

WHEREAS, Modesto Municipal Code, Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, the issuance of a formal Request for Bid for the purchase of five (5) pressure-flow control valves will conform to Modesto Municipal Code Section 8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the purchase of five (5) pressure-flow control valves, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened, they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Hawn, 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. 2005-241

A RESOLUTION AMENDING THE
FISCAL YEAR 2004-2005 ANNUAL BUDGET

WHEREAS, the Joints Power Authority (JPA) constructed Tenth Street Place and the adjacent parking garage, and

WHEREAS, progress payments have been made to the JPA from all parties throughout the construction and it has been determined that the final payment due from the City is $934,914, and

WHEREAS, capital project #J219 was inadvertently closed and will need to be reopened and a transfer made in the amount of $320,813 in conjunction with the existing $614,010 to make a total to make a final payment of $934,914 and close out the project,

WHEREAS, the close out and completion of the project will also require a one-time adjustment of approximately $800,000 to the General Fund transfer for the Tenth Street Place debt service,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves reopening of capital project #J219 and authorizes a total budget adjustment in the amount of $934,914 to fund the final payment for Tenth Street Place construction in said amount, and also approves the approximate $800,000 General Fund transfer adjustment for the FY 04/05 Tenth Street Place debt service.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the
City of Modesto held on the 10th day of May 2005, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Dunbar, 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 ZAHN, City Clerk

APPROVED AS TO FORM:

By: ______________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-242

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION IN THE AMOUNT OF $295,993 TO THE OFFICE OF COMMUNITY ORIENTED POLICING (COPS) FOR THE 2005 TECHNOLOGY GRANT PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID APPLICATION

WHEREAS, the City of Modesto Police Department can make application in the amount of $295,993 to the Office of Community Oriented Policing for a Technology Grant Program, and

WHEREAS, the program is of 12-month duration, and it allows for the procurement of equipment and technology to enhance law enforcement, and

WHEREAS, the Police Department, lead by the Department of Information and Technology wishes to submit an application for new public safety systems for mobile data computing, automated vehicle location and automated field reporting, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan action, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the total grant project will be $295,993, with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes submittal of an application for the 2005 Technology Grant Program, administered by the COPS Office for acquisition of new public safety systems for mobile data computing, automated vehicle location and automated field reporting.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute said grant application.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Hawn, 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 DECLARING THE CITY-OWNED PROPERTY (APN # 106-006-002) KNOWN AS THE 17TH AND G STREETS PARK AS SURPLUS PROPERTY AND AUTHORIZE STAFF TO PROCEED WITH AN APPRAISAL AND CONTRACT FOR REAL ESTATE SERVICES FOR THE SALE OF THIS PROPERTY

WHEREAS, the park site at 17th and G Streets was purchased in 1906 by the City of Modesto utilizing general fund money, and

WHEREAS, City records indicate that it was used as a water conveyance and well site, and then landscaped and utilized as a park site previous to 1924, and

WHEREAS, since that time, the site has been maintained by the Parks Division and open to the public as a public park, and

WHEREAS, the well located on the site is still in use, and a water tower constructed on the site in 1915 was utilized until being decommissioned in 1995 due to seismic structural concerns, and

WHEREAS, over the past 15 years, the site has been an area of safety problems for the City of Modesto and its citizens; the Modesto Police Department has made numerous arrests, as well as multiple and continuous citations for disorderly conduct, and

WHEREAS, due to the reduction of maintenance funding for park facilities, the park has fallen into a state of disrepair and is no longer productive as a public facility; a large investment of local funds would be required to renovate it, and

WHEREAS, it is also located in the redevelopment area of downtown, giving it the high value potential to become a benefit to the community in the form of housing or some mixed-use facility, and
WHEREAS, the Finance Committee met on March 21, 2005, and supported the recommendation to declare the property as surplus,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby declares the City-owned property (APN # 106-006-002) known as the 17th and G Streets Park as surplus property.

BE IT FURTHER RESOLVED that staff is hereby authorized 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 10th day of May 2005, by Councilmember Hawn, 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’Bryan, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING A REQUEST FROM THE NEW HARVEST
CHRISTIAN FELLOWSHIP FOR USE OF AMPLIFIED MUSIC AT MANCINI
BOWL FOR A FREE CHRISTIAN CONCERT TO BE HELD ON AUGUST 20,
2005

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from New Harvest Christian Fellowship, requesting use of amplified music at Mancini Bowl on Saturday, August 20, 2005, for a free Christian concert, and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the New Harvest Christian Fellowship for the use of amplified music at Mancini Bowl for a free Christian concert on August 20, 2005.

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 Hawn, 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. 2005-245

A RESOLUTION APPROVING A REQUEST FROM THE VALLEY CONCERT BAND INC. FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A FREE BAND CONCERT TO BE HELD ON JULY 19, 2005

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from Valley Concert Band Inc., requesting use of amplified music at Mancini Bowl on Tuesday, July 19, 2005, for a free band concert, and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the Valley Concert Band Inc. for the use of amplified music at Mancini Bowl for a free band concert on July 19, 2005.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-246

A RESOLUTION APPROVING THE FINAL MAP OF THE KODIAK VILLAGE II SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH MERITAGE HOMES OF CALIFORNIA, A CALIFORNIA CORPORATION

WHEREAS, MERITAGE HOMES OF CALIFORNIA, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.19 acres, known as the KODIAK VILLAGE II SUBDIVISION ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, an application for a vesting tentative subdivision map was deemed complete by the Secretary of the Planning Commission on March 5, 2004, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 19th day of April, 2004, and

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May 2005, by Councilmember Hawn, 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. 2005-247

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

WHEREAS, KB HOME NORTH BAY, INC., a California Corporation, is the subdivider of OAKCREST SUDIVISION ("SUBDIVISION"), and

WHEREAS, KB HOME NORTH BAY, INC., has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,189,941 and $594,970.50, respectively, and

WHEREAS, KB HOME NORTH BAY, INC., has filed a warranty bond in the amount of $118,994.10 to guarantee improvements in the Oakcrest Subdivision, and

WHEREAS, the City Engineer, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

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

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

1. The improvements in the Oakcrest Subdivision are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,189,941 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $594,970.50 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $118,994.10 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 10th day of May 2005, by Councilmember Hawn, 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. 2005-248

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE "SISK ROAD CONSTRUCTION AND DRAINAGE IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $813,184.04 PER THE CONTRACT. TOTAL PROJECT COST IS $2,670,411.86

WHEREAS, a report has been filed by the Public Works Director that the project titled "Sisk Road Construction and Drainage Improvements" has been completed by George Reed, Inc., in accordance with the contract agreement dated August 10, 2004,

NOW, THEREFORE, BE IT RESOLVED that the "Sisk Road Construction and Drainage Improvements" project be accepted from said contractor, George Reed, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $813,184.04, 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 10th day of May 2005, by Councilmember Hawn, 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 APPROVING A $425,000 UTILITY POLE RELOCATION AGREEMENT WITH MODESTO IRRIGATION DISTRICT (MID) FOR THE RELOCATION OF ELECTRIC UTILITY POLES LOCATED ON FLOYD AVENUE BETWEEN OAKDALE ROAD AND ROSELLE AVENUE, AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto is desirous of widening Floyd Avenue between Oakdale Road and Roselle Avenue from two travel lanes to four travel lanes, and

WHEREAS, the widening of Floyd Avenue was contemplated in the Village One Facilities Master Plan Update, dated May 2003, and

WHEREAS, the Modesto Irrigation District ("MID") owns electric utility poles that are within the recently acquired right-of-way along Floyd Avenue, and

WHEREAS, above-mentioned utility poles require relocation before Floyd Avenue can be widened to accommodate 4 travel lanes, and

WHEREAS, the Community Facilities District agrees to pay the cost associated with the relocation of the utility poles in an amount not to exceed $425,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the Community Facilities District and the Modesto Irrigation District for the relocation of utility poles located on Floyd Avenue between Oakdale Road and Roselle Avenue is hereby approved.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute said agreement.
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 Keating, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

Attest: Jean Zahr, City Clerk

05/10/05/PW/V. Dion/Item No 19

2005-249
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-250

A RESOLUTION AUTHORIZING STAFF TO DEMOLISH THE FIRE-DAMAGED BUILDING AT 1029 9TH STREET (EVERETT & JONES RESTAURANT SITE) AND DEVELOP PLANS AND SPECIFICATIONS FOR CONSTRUCTION OF A PERMANENT PARKING LOT AT THE SITE

WHEREAS, as part of the acquisition of land and buildings for the Downtown Transportation Center in the late 1980’s, the City acquired the building at 1029 9th Street, and

WHEREAS, this building was converted from a railway express agency into a restaurant site in the 1970’s, and

WHEREAS, after acquisition by the City, the building was leased to two private parties who continued the restaurant operation, and

WHEREAS, the long-term use of the property, as required by the funding source, must be used for transit purposes, and

WHEREAS, on February 23, 2003, Annie P. Jones and Robert S. Dudley, dba Everett & Jones Barbeque, entered into a lease with the City for this property, and

WHEREAS, the restaurant at 1029 9th Street burned on September 24, 2004 and has been boarded up and secured with fencing since that time, and

WHEREAS, City building officials have declared the building to be dangerous pursuant to the City’s Building Code, and

WHEREAS, the cost to rebuild the building is estimated at approximately $1.3 million and the cost to demolish the building has been estimated at $18,000, and

WHEREAS, the City and the insurance company are involved in negotiations as to the estimated cost of reconstruction of the building, and
WHEREAS, the City will receive the “actual cash value” of the building which is the estimated cost of reconstruction, less depreciation, if the building is not rebuilt, and

WHEREAS, the City will receive the estimated cost of reconstructing the building in like kind and quality if the insurance settlement funds are dedicated towards the construction of another structure, regardless of the replacement building location or designated use, and

WHEREAS, representatives from the City Attorney’s Office, Community and Economic Development Department, Risk Management, and Public Works Department have recommended demolition of said burned building and construction of a permanent parking lot at the former restaurant site, and

WHEREAS, the cost of building a permanent parking lot with landscaping and standard parking lot curbs is estimated at $74,000, and

WHEREAS, Organization 1681 has been established to account for revenues and expenses associated with demolition of said burned building and the construction of a parking lot at that location, and

WHEREAS, the City has received $242,209 to date as partial payment on the insurance settlement and anticipates receiving payments totaling a minimum of $600,000 in addition to said funds received to date, and

WHEREAS, revenue account 6510-165-B911-8119-02 (New Bus Maintenance Facility Project) has been designated to receive funds available after the building is demolished and the parking lot project is completed, and

WHEREAS, the City’s Landmark Preservation Commission voted unanimously that this site has “no intrinsic historic value” for the City and agreed with staff’s
recommendation to demolish the building, and

WHEREAS, the Council Economic Development Committee approved this recommendation at its February 7, 2005 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to demolish the building at 1029 9th Street.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney