MODESTO CITY COUNCIL
RESOLUTION NO. 2005-131

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: SPECIFIC PLAN AMENDMENT NO. 19 TO THE VILLAGE ONE SPECIFIC PLAN TO AMEND THE VILLAGE ONE SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATIONS OF A PORTION OF PRECISE PLAN AREA NO. 1 FROM VERY LOW DENSITY RESIDENTIAL TO OFFICE AND HIGH SCHOOL AND TO ALLOW CITY COUNCIL APPROVAL OF A FINAL DEVELOPMENT PLAN CONCURRENT WITH APPROVAL OF PRECISE PLAN AREA NO. 1, ADOPTION OF A PRECISE PLAN FOR AREA NO. 1 AND CONCURRENT REZONING FROM SPECIFIC PLAN-HOLDING ZONE TO SPECIFIC PLAN-OVERLAY ZONE, AND APPROVAL OF A FINAL DEVELOPMENT PLAN FOR A PORTION PRECISE PLAN NO. 1, PROPERTY LOCATED AT THE NORTHEAST CORNER OF SYLVAN AVENUE AND ROSELLE AVENUE. (SYLVAN VETERINARY HOSPITAL)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearinghouse No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 ("VI FMP"), and
WHEREAS, an application has been filed by Sylvan Veterinary Hospital for (1) an amendment to the Village One Specific Plan to change the land use designation of a portion of Precise Plan Area No. 1 from Very Low Density Residential to Office and High School and to allow City Council approval of a Final Development Plan concurrent with approval of Precise Plan Area No. 1, (2) an approval of a Precise Plan for Area No. 1 in the Village One Specific Plan Area, and concurrent rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone, (3) a Final Development Plan for a portion of Precise Plan for Area No. 1 in the Village One Specific Plan Area (collectively the “Project”), and

WHEREAS, the City’s Community and Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2005-03, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, the Planning Commission, by Resolution No. 2005-07, adopted on January 24, 2005, and City staff, by a report dated January 24, 2005, from the Community and Economic Development Department, recommended to the City Council approval of Amendment No. 19 to the Village One Specific Plan to change the land use designation of a portion of Precise Plan Area No. 1 from Very Low Density Residential to Office and High School and to allow City Council approval of a Final Development
Plan concurrent with approval of Precise Plan Area No. 1, to adopt a Precise Plan for Area No. 1 of the Village One Specific Plan and rezone Area No. 1 to Specific Plan-Overlay Zone, SP-O, and approval of a Final Development Plan for a portion of Precise Plan Area No. 1, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 8, 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 Environmental Assessment No. EA/C&ED 2005-03, entitled "Amendment of the Village One Specific Plan, Approval of Precise Plan Area No. 1, Final Development Plan, and any Subsequent Approvals Consistent with Proposed Project", for the proposed Project, and the Council hereby makes the following findings:

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan. The proposed zone change is required by public convenience or necessity and will result in an orderly planned use of land resources for the following reasons:
   a. Office use is consistent with the land use plan because the site is of an appropriate size for office development.
   b. Office use is compatible with the neighboring high school.
   c. Office use is appropriate on Minor Arterial streets.

2. The proposed Precise Plan Area No. 1, and concurrent rezoning from Specific Plan - Holding Zone to Specific Plan - Overlay Zone are consistent with the Modesto Urban Area General Plan and the Village One Specific Plan as amended because it provides for Office and High School land use designations.
3. The proposed Final Development Plan for office development on the Sylvan Veterinary Hospital parcel at 3500 Roselle Avenue (APN 084-002-041) is consistent with the Modesto Urban Area General Plan and the Village One Specific Plan, as amended, and conforms with Precise Plan Area No. 1 because it provides suitable development regulations and design standards.

4. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Village One Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan and no new environmental document or findings are required by CEQA.

5. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan are required, and

6. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Village One Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan, and

7. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Village One Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan, and was adopted which shows any of the following:

a. One or more significant effects which is not discussed in the Village One Program EIR as
amended by the Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan; or,

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

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

d. Mitigation measures or alternatives which are considerably different from those analyzed in the Village One Program EIR as amended by the Village One Supplemental EIR and the Addendum to the Village One Specific Plan Program EIR for the Village One Facilities Master Plan, and would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

8. The Initial Study, Environmental Assessment No. EA/C&ED 2005-03, provides the substantial evidence to support findings 4-7, noted above.

A copy of said Environmental Assessment No. EA/C&ED 2005-03, entitled "Amendment of the Village One Specific Plan, Approval of Precise Plan Area No. 1, Final Development Plan, and any Subsequent Approvals Consistent with Proposed Project ", is on file with the City Clerk.

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 8th day of March, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: ________________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-132

A RESOLUTION AUTHORIZING THE AWARD OF A THREE (3) YEAR CONTRACT WITH TWO (2) ONE YEAR EXTENSION OPTIONS TO FIRST HEALTH GROUP OF SACRAMENTO, CA FOR THE RE-PRICING OF WORKERS’ COMPENSATION MEDICAL BILLS FOR AN ESTIMATED ANNUAL COST OF $25,000 AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE SAID CONTRACT

WHEREAS, the City of Modesto provides medical treatment to its employees for industrial injuries/illness’, and

WHEREAS, the City of Modesto engages in re-pricing of these bills utilizing the State of California Official Fee Schedule and PPO networks, and

WHEREAS, a detailed Request for Information (RFI) was issued on behalf of the City to solicit vendors who were capable and qualified to provide said re-pricing services to the City, and

WHEREAS, the RFI responses were evaluated by a committee comprised of the City’s Risk Manager, Purchasing Supervisor, two outside subject matter experts and a City Council member as an observer, with First Health Group receiving the highest ranking in total evaluation criteria as determined by the evaluation committee, and

WHEREAS at its meeting on February 23, 2005, the Finance Committee accepted the report containing the selection and evaluation process, and

WHEREAS at said meeting, the Finance Committee further recommended taking to full Council the award of a three (3) year contract with two (2), one-year extension options to First Health Group, with terms and conditions as stated in said contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of a three (3) year contract with two (2) one-year extension options to First Health Group of Sacramento, CA for an estimated annual cost of $25,000, a copy of which will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Acting City Manager, or his designee, to execute said contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-133

A RESOLUTION APPROVING STAFF RECOMMENDATIONS
IMPLEMENTING OPERATING BUDGET REDUCTIONS OVER A TWO-YEAR
PERIOD RESULTING IN A BALANCED BUDGET BY FY 06-07

WHEREAS, the City’s General Fund operating revenues are not keeping pace
with the growth in General Fund operating expenses, and

WHEREAS, this imbalance in revenues and expenditures is projected to continue
without affirmative action being taken, and

WHEREAS, at its meeting of February 8, 2005, the City Council approved a
recommendation that staff develop strategies for implementing a balanced budget by
Fiscal Year 2005-2006, and

WHEREAS, at its meeting of February 23, 2005, the Finance Committee
approved staff’s implementation plan as outlined in the Committee report dated February
14, 2005,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto
that it hereby approves the budget reduction strategies as outlined in the Council Agenda
Report to the Mayor and City Council from Judith Ray, Assistant to the City Manager,
dated February 24, 2005, a copy of which is on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto, held on the 8th day of March 2005, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Keating, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-134

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE MODESTO ART IN PUBLIC PLACES, INC. AND THE CITY OF MODESTO TO ACCEPT A BUST OF CÉSAR CHAVEZ FOR INSTALLATION IN CÉSAR CHAVEZ PARK AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, it is the desire of the City of Modesto to expand and enhance Art in Public Places throughout the greater Modesto area, and

WHEREAS, the Modesto Art in Public Places, Inc., a non-profit corporation, was established in 2004 to provide art in public places, and

WHEREAS, the Modesto Art in Public Places, Inc. has purchased a César Chávez bust and wishes to install the bust in the City of Modesto’s César Chávez Park, and

WHEREAS, Modesto Art in Public Places, Inc., will set aside funding for the maintenance and repair costs associated with the bust, and

WHEREAS, an agreement with Modesto Art in Public Places, Inc. is needed for the City of Modesto to accept the César Chávez bust for installation in César Chávez Park, and

WHEREAS, at their January 31, 2005 meeting, the Safety and Communities Committee recommended entering into an agreement with Modesto Art in Public Places, Inc. to accept the César Chávez bust for installation in César Chávez Park,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into an agreement with the Modesto Art in Public Places, Inc. to accept the César Chávez bust for installation in César Chávez Park.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 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, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney

ATTEST: [Signature]

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-135

A RESOLUTION APPOINTING CAROLE ANN STARK AND HENRY DOTINGA TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on March 7, 2005, and recommended appointment of CAROLE ANN STARK, a northeast resident, to the Community Qualities Forum.

WHEREAS, Vice Mayor Denny Jackman has recommended HENRY DOTINGA 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. CAROLE ANN STARK, a northeast resident, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2009.

SECTION 2. HENRY DOTINGA, as Vice Mayor Jackman’s selection, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2009.

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Community Qualities Forum and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-136

A RESOLUTION APPOINTING JOINT MEMBERS TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION AND HUMAN RELATIONS COMMISSION

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

WHEREAS, the Economic Development Committee met on March 7, 2005, and recommended appointment of AMY CHRISTENSEN, GREWAL HARDINER and JOE MENDOZA to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission.

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

SECTION 1. AMY CHRISTENSEN, GREWAL HARDINER and JOE MENDOZA are hereby appointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed joint members of the Equal Opportunity/Disability Commission and Human Relations Commission, and the Secretary thereof.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-137

A RESOLUTION APPOINTING JOSEPH ALONZO AND ROBERT RASPO TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on March 7, 2005, and recommended appointment of JOSEPH ALONZO and ROBERT RASPO.

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

SECTION 1. JOSEPH ALONZO and ROBERT RASPO are hereby appointed to the Golf Courses Advisory Committee with term expirations of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

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

ATTEST: [Signature]
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-138

A RESOLUTION APPOINTING DOLORES NIEMI TO THE LANDMARK PRESERVATION COMMISSION

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

WHEREAS, the Economic Development Committee met on March 7, 2005, and recommended appointment of DOLORES NIEMI to the Landmark Preservation Commission.

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

SECTION 1. DOLORES NIEMI is hereby reappointed to the Landmark Preservation Commission with term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

ATTEST: JERAN ZAHN, City Clerk

03/22/05/CMO/Epuckett/item No. 4
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-139

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS FOR CONSULTANT SERVICES FOR FACILITIES MASTER PLANS AND INFRASTRUCTURE FINANCE PLANS.

WHEREAS, the City has adopted specific plan guidelines to implement the goals and policies of the General Plan, and

WHEREAS, it is the intent of the specific plan process to provide standards for development at a more focused level of detail, and

WHEREAS, these specific plans then become the basis for the formulation of the infrastructure and finance master plans, and

WHEREAS, City staff wishes to pursue a consultant who will assist the City in developing facility master plans and infrastructure finance plans, and

WHEREAS, it is the intent of the Request for Qualifications (RFQ) to select a consultant team who will be used for a term of three to five years, and

WHEREAS, the Economic Development Committee met on March 7, 2005, and supported the recommendation to release the RFQ,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to proceed with a Request for Qualifications for consultant services for facility master plans and infrastructure finance plans.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember Dunbar
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-140

A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 AND PPC
TUOLUMNE GROVE 2, LLC FOR A PORTION OF THE IMPROVEMENTS
NEEDED TO THE INTERSECTION OF OAKDALE ROAD AT LA FORCE
DRIVE AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS
OF THIS AGREEMENT HAVE BEEN ADQUATELY ADDRESSED BY THE
PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR
AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH No.
90020181), WITH AN ADDEUM FOR KODIAK VILLAGE III VESTING
TENTATIVE SUBDIVISION MAP (EA/C&ED NO. 2004-45)

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

WHEREAS, PPC Tuolumne Grove 2, LLC (“Developer”) has agreed to install
certain improvements to the intersection of Oakdale Road at La Force Drive, and

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

WHEREAS, said agreement shall have a maximum reimbursement amount of
$191,254, and

WHEREAS, the City Council has received and considered the Initial Studies,
Environmental Assessment EA/C&ED Nos. 2004-45, which conclude that Developer’s
project entitled Kodiak Village III Vesting Tentative Subdivision Map, including the
improvements for which the Developer will be reimbursed under the proposed
agreement, is within the scope of the previously certified Village One Specific Plan
Program EIR as modified by the 1994 Final Supplemental EIR (SCH No. 90020181),
with an Addendum for Kodiak Village III Vesting Tentative Subdivision Map

03/22/05/CM/T Rocha/Item No. 8 1 2005-140
(EA/C&ED No. 2004-45), and that, pursuant to Sections 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

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

The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Meritage Homes of California, Incorporated ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR and the 2003 Addendum to the EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

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

No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.
There is no new information of substantial importance that was not known and
could not have been known with the exercise of reasonable diligence when the Program
EIR, was adopted which shows any of the following:

one or more significant effects which is not discussed in the Program EIR; or,
significant effects which were previously examined will be substantially more severe than previously shown; or,

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

mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

The Initial Study, Environmental Assessment EA/C&ED No. 2004-5, provides the substantial evidence to support findings 1-5, above.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman,
who moved its adoption, which motion being duly seconded by Councilmember Dunbar,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By:

MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-141

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT REQUEST FOR PROPOSALS FOR THE FURNISHING
OF FORMS PRINTING AND MAILING SERVICES, FOR A TWO (2) YEAR
AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN
ESTIMATED ANNUAL COST OF $332,687

WHEREAS, the Finance Department, Customer Services Division and
Information and Technology Department, manages and facilitates the printing and
mailing distribution of the City’s billing forms, and

WHEREAS, these forms are printed and mailed to both residential and
commercial customers, and include, but are not limited to, business licenses, declarations,
notices and utility bills, and

WHEREAS, currently these forms are printed on a Xerox Document 92C printer,
which is housed in the City’s Information and Technology Department’s computer room,
and

WHEREAS, the City’s current lease on this printer expires December 2005, and
WHEREAS, City staff coordinates with a contracted service provider, to fold,
stuff and mail these forms to the various customers of the City, and

WHEREAS, outsourcing the printing and designing of these forms could provide
several benefits to the City, including enhanced customer service and technology.
Outsourcing will improve flexibility in areas such as design overlay, changes to forms,
viewing, tracking, producing duplicate bills, print backup contingency plan, and the
printing of multiple page bills via the Internet, and

WHEREAS, the City’s current system has limited ability to reproduce an original
bill or use more than two (2) ink colors, and
WHEREAS, in addition, the current utility bill print program is custom designed by a retired individual who no longer lives in the area, and

WHEREAS, any upgrades or changes to the print program are dependent upon his availability, and

WHEREAS, this leaves the City vulnerable and enhances the desire to seek a more flexible, updated, electronic solution, and

WHEREAS, the City’s Information and Technology Department has limited space in its computer room and the current printer occupies a large portion of the space, and

WHEREAS, with the printer’s lease expiring in December 2005, the City should recognize savings in other areas, such as, maintenance, monthly lease payments on the printer, and staff time to manage the printing process, 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 the furnishing of forms printing and mailing 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 the furnishing of forms printing and mailing services, for a three (3) year agreement, with two (2) one-year extension options, to be opened in the office of the
City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, they shall be tabulated and analyzed by an evaluation committee 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 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: [Signature]

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-142

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR STORM BASIN WEED ABATEMENT SERVICES TO CLARK PEST CONTROL OF MODESTO, CA. FOR AN INITIAL TWO-YEAR PERIOD WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS, AT AN ESTIMATED COST OF $71,500 FOR THE FIRST YEAR

WHEREAS, the Public Works Department-Waste Water Collections Division has requested the purchase of storm basin weed abatement services, and

WHEREAS, currently the City of Modesto has twenty (20) storm basins throughout the storm collection system, and

WHEREAS, Resolution No. 2004-578 authorized the Purchasing Supervisor to solicit formal Request for Bids (RFB) for storm basin weed abatement services, and

WHEREAS, the estimated cost for storm basin weed abatement services for the first year is approximately $71,500, and

WHEREAS, some are retention basins, while others are detention basins, and

WHEREAS, retention basins collect water through a sequence of underground pipes that feed the basin, and

WHEREAS, storm water is stored in these basins and allowed to percolate or evaporate, and

WHEREAS, detention basins have the added component of removing the storm water via a lift station located at the basin that pumps to an open waterway, MID canal, creek or river, and

WHEREAS, it is very important to maintain the integrity of these basins to be able to hold as much capacity as possible, and
WHEREAS, this allows removal of storm water from streets during heavy rain events, thus removing a public safety hazard, and

WHEREAS, our current weed abatement contract includes regularly scheduled spraying of weeds throughout our basin system, and

WHEREAS, this includes spraying at needed basins a total of four (4) times a year or as needed, and

WHEREAS, any chemicals used in the process are applied by a licensed and certified weed abatement contractor, and

WHEREAS, the Purchasing Division solicited formal Request for Bids (RFB) for storm basin weed abatement services on Request for Bid 0405-10, and

WHEREAS, out of eleven (11) vendors solicited, one (1) chose to respond to the RFB, and

WHEREAS, feedback from a number of vendors, who choose not to respond to the RFB, indicated that they could not comply with new State and Federal regulations for application for pre-emergent chemicals, and

WHEREAS, bids received were evaluated per specification 0405-10 by the Purchasing Division and Public Works, Water Collections Division, and

WHEREAS, the City Council has appropriated $71,500 in account number 6280-480-5312-0212-50 for storm basin weed abatement 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 the code also states that purchases whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of Council, and
WHEREAS, the storm basin weed abatement services received said approval with Resolution No. 2005-578. This award of bid and contract will conform to code, and

WHEREAS, Clark Pest Control of Modesto, CA. was deemed the low responsive and responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for storm basin weed abatement services for an initial two-year period, with three (3) one-year contract extension options to Clark Pest Control of Modesto, CA. at an estimated annual cost of $71,500 for the first year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-143

A RESOLUTION AUTHORIZING AWARD OF BID AND CONTRACT FOR
THE REBUILDING OF NINE (9), 1990 GILLIG/LIFT-U WHEELCHAIR LIFTS
TO GILLIG CORPORATION OF HAYWARD, CA. FOR AN ESTIMATED
TOTAL COST OF $78,991.49

WHEREAS, the Public Works Department-Fleet Services Division has requested
a purchase for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts, and

WHEREAS, the wheelchair lifts on our City of Modesto buses must be kept to the
highest standards of repair and maintenance for the safety of our disabled customers, and

WHEREAS, the lifts in use now are the original lifts that were purchased with the
buses, and

WHEREAS, the normal life cycle on these lifts average twelve (12) years and
these lifts are now fourteen (14) years old, and

WHEREAS, due to solid preventive maintenance programs, staff has been able to
stretch the life of these lifts to the current fourteen-year point, and

WHEREAS, recent maintenance records indicate it is time to rebuild or replace
the lifts, and

WHEREAS, the rebuilding program being offered by the original manufacturer of
our lifts will bring the lifts back to the original manufactured specifications, with a full
factory warranty, and

WHEREAS, the rebuild program is the most cost effective use of the City’s
maintenance funds, and

WHEREAS, funding for rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair
Lifts is budgeted in account number 6540-480-5612-5600, and
WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases that meet or exceed $50,000 for material, equipment, or contractual services to be formally bid. The code also states that purchases whose total maximum cost to the City exceeds $50,000 shall receive preliminary approval of Council. MCC (8-3.203 (a)).

The rebuilding of nine (9) 1990 Gillig/Lift-U Wheelchair Lifts received said approval with Resolution No. 2005-60, and

WHEREAS, the Purchasing Division solicited formal bids for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair lifts on RFB 0405-14 and

WHEREAS, all three vendors solicited for bids responded to the RFB, and

WHEREAS, Gillig Corporation of Hayward, CA. is the lowest responsive and responsible bidder for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts, and

WHEREAS, this award of bid and contract conforms to MMC, Section 8-3.203,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for the rebuilding of nine (9), 1990 Gillig/Lift-U Wheelchair Lifts to Gillig Corporation of Hayward, CA. for an estimated total cost of $78,991.49.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is authorized to issue a purchase order for the rebuilding of nine (9) Gillig/Lift-U Wheelchair Lifts to Gillig Corporation of Hayward, CA. in the approximate total cost of $78,991.49.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

ATTEST: Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-144


WHEREAS, the Finance Department-Central Stores Division has requested the purchase of concrete boxes and covers and cast iron covers and frames for an initial two-year period, with three (3) one-year contract extension options, and

WHEREAS, the Central Stores Division is responsible for inventoring concrete boxes and covers and cast iron covers and frames for use by various departments (Public Works and other departments) for ongoing City projects, and

WHEREAS, Resolution No. 2005-61 authorized the Purchasing Supervisor to solicit Request for Bid (RFB) for concrete boxes and covers and cast iron covers and frames, and

WHEREAS, the Purchasing Division solicited formal bids for concrete boxes and covers and cast iron covers and frames with Request for Bid No. 0405-15, and

WHEREAS, twenty one (21) vendors were solicited and five (5) chose to respond to the RFB, and

WHEREAS, Groeniger & Company of Modesto, CA. is the lowest responsive and responsible bidder for items 1-8, 12, 14-15, 17-18, 20-21, 29, 31 and 33 of the RFB, and
WHEREAS, Kenko Utility Supply of Tracy, CA. is the lowest responsive and responsible bidder for items 9-11, 13, 16, 19, 22, 25-28, 30 and 32 of the RFB, and

WHEREAS, A. C. E. Fabrication of Basta, CA. is the lowest responsive and responsible bidder for items 23 and 24 of the RFB,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for concrete boxes and covers and cast iron covers and frames to Groeniger & Company of Modesto, CA. for the bid items set forth herein in the approximate amount of $68,029.61; Kenko Utility Supply of Tracy, CA. for the bid items set forth herein in the approximate amount of $29,813.28; and A.C.E. Fabrication of Basta, CA. for the bid items set forth herein in the approximate amount of $3,627.72.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue purchase agreements for concrete boxes and covers and cast iron covers and frames to: Groeniger & Company of Modesto, CA. in the approximate annual amount of $68,029.61; Kenko Utility Supply of Tracy, CA. in the approximate annual amount of $29,813.28; and A.C.E. Fabrication of Basta, CA. in the approximate annual amount of $3,627.72.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: Marsh

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-145

A RESOLUTION AWARDING A CONTRACT TO ROYSTON HANAMOTO ALLEY & ABEEY FOR PROFESSIONAL LANDSCAPE ARCHITECTURAL SERVICES TO PREPARE A MASTER PLAN, DESIGN DEVELOPMENT REPORT AND CONSTRUCTION DOCUMENTS FOR CLAUS NEIGHBORHOOD PARK INCLUDING THE NECESSARY ADJACENT ROAD IMPROVEMENTS, FOR A COST NOT TO EXCEED $142,500.00, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the City of Modesto currently owns the approximately 7-acre Claus Neighborhood Park site on the northeast corner of Kodiak Drive and Litt Road, adjacent to the future Sylvan Union Elementary School Site on the corner of Kodiak Drive and Fine Avenue, and

WHEREAS, this is the third and final neighborhood park in the Village One Specific Plan Boundary to be designed, and

WHEREAS, development of this neighborhood park is expected to begin in summer of 2006, and in order to be prepared to begin construction on this schedule, the Master Plan, Design Development Report and Construction Documents must be completed by winter of 2005-2006, and

WHEREAS, on January 25, 2005, the Modesto City Council adopted a resolution approving an On-Call Landscape Architectural Service Provider List; staff has selected from that list, Royston, Hanamoto Alley & Abey (RHAA) to complete professional landscape architectural services for Claus Neighborhood Park including the necessary adjacent road improvements, and

WHEREAS, RHAA has agreed to provide the Master Plan, Design Development Report, and Construction Documents at a cost not to exceed $142,500.00, and
WHEREAS, the Master Plan will be developed using community input through public meetings and workshops, and

WHEREAS, the Safety and Communities Committee met on February 28, 2005, and supported the recommendation to award a contract to Royston, Hanamoto Alley & Abey,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves awarding a contract to Royston Hanamoto Alley & Abey for professional landscape architectural services to prepare a Master Plan, Design Development Report and Construction Documents for Claus Neighborhood Park including the necessary adjacent road improvements, for a cost not to exceed $142,500.00.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute the agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

Attest: ____________________________
JEAN ZAHR, City Clerk

By: ________________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-145A

A RESOLUTION AMENDING THE FY 04-05 CAPITAL IMPROVEMENT PROGRAM TO TRANSFER $30,000.00 FROM THE CAPITAL FACILITIES FEE RESERVE 1350-800-800-8003 TO THE CLAUS NEIGHBORHOOD PARK ACCOUNT #1350-310-P402-6010, THUS FULLY FUNDING THE DEVELOPMENT OF A MASTER PLAN, DESIGN DEVELOPMENT REPORT, AND CONSTRUCTION DOCUMENTS FOR CLAUS NEIGHBORHOOD PARK INCLUDING THE NECESSARY ADJACENT ROAD IMPROVEMENTS.

WHEREAS, the City of Modesto currently owns the approximately 7-acre Claus Neighborhood Park site on the northeast corner of Kodiak Drive and Litt Road, adjacent to the future Sylvan Union Elementary School Site on the corner of Kodiak Drive and Fine Avenue, and

WHEREAS, this is the third and final neighborhood park in the Village One Specific Plan Boundary to be designed, and

WHEREAS, development of this neighborhood park is expected to begin in summer of 2006, and in order to be prepared to begin construction on this schedule, the Master Plan, Design Development Report and Construction Documents must be completed by winter of 2005-2006, and

WHEREAS, by Resolution No. 2005-145, adopted on March 22, 2005, the City Council awarded a contract to Royston Hanamoto Alley & Abey for professional landscape architectural services to prepare a Master Plan, Design Development Report and Construction Documents for Claus Neighborhood Park including the necessary adjacent road improvements, for a cost not to exceed $142,500.00, and
WHEREAS, City staff project management to complete the Master Plan, Design Development Report, Construction Documents and Environmental Findings is anticipated to be approximately $23,500.00, and

WHEREAS, temporary fencing was installed around the park this past summer to discourage dumping of spoils on the park before it is developed, at a cost of $17,000, and

WHEREAS, the total cost for the Design Development Report, Master Plan, Construction Documents, city staff project management, and temporary fencing is expected to be approximately $183,000.00, and

WHEREAS, the Claus Neighborhood Park account #1350-310-P402 has funding of $153,000.00 budgeted for the planning of this park from Parks Capital Facility Fees (CFF), and

WHEREAS, the additional $30,000 in funding is available in the Parks CFF Reserve, Account #1350-800-8000-8003, and

WHEREAS, on February 28, 2005, the Safety and Communities Committee recommended amending the Capital Improvement Program to fully fund the development of a Master Plan, Design Development Report, and Construction Documents for Claus Neighborhood Park including the necessary adjacent road improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the FY 04-05 Capital Improvement Program to transfer $30,000.00 from the Capital Facilities Fee Reserve Account# 1350-800-800-8003 to the Claus Neighborhood Park Account #1350-310-P402-6010, thus fully funding the development of a Master Plan, Design Development Report, and Construction
Documents for Claus Neighborhood Park including the necessary adjacent road improvements.

BE IT FURTHER RESOLVED that the Finance Director, or his 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 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
WHEREAS, on April 23, 2002, by Resolution No. 2002-187, the City Council designated Harvest of Hope, a local non-profit organization, as a Community Based Development Organization (CBDO), and

WHEREAS, CBDO is a Department of Housing and Urban Development (HUD) designation for either for-profit or non-profit organizations that work under State or local law to engage in community development activities primarily within an identified geographic area of operation within the jurisdiction of the recipient, and

WHEREAS, additionally, the organization must have, as its primary purpose, the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income, and

WHEREAS, on May 14, 2002, by Resolution No. 2003-249, as part of the 2002-2003 Annual Action Plan, the City Council approved the allocation of $50,000 from Community Development Block Grant (CDBG) funds for CBDO activities, of which, $15,000 was set aside to Harvest of Hope for CBDO activities, and

WHEREAS, specifically, Harvest of Hope committed to the following activities: hire a full-time coordinator for Volunteers Assisting Code Enforcement (VACE) program; establish a schedule for major events to occur during the year, especially training of VACE volunteers; and establish a database to track program efforts, and,
WHEREAS, based on the contract agreement with Harvest of Hope, in June 2003, the City of Modesto advanced $6,000 to Harvest of Hope to cover start-up costs for their CBDO efforts, and

WHEREAS, Harvest of Hope was to turn in receipts for $6,000 to justify the costs and trigger further financial reimbursement, and

WHEREAS, in subsequent months, staff tried to contact Harvest of Hope to follow up on the progress of this project, but was unable to reach them, and

WHEREAS, staff then sent two letters attempting to collect receipts, funds, and gather information about the status of Harvest of Hope, but was unsuccessful, and

WHEREAS, on May 25, 2004, City of Modesto staff received an e-mail from Peter Gardner, Executive Board of Harvest of Hope, stating:

"Due to a lack of funding and circumstances beyond our control, Harvest of Hope will be inactive for the near future. The executive board will be revisiting its Mission, rethinking its Goals, and reorganizing for the challenges that the future holds.

During this time, we are still seeking funding and accepting cash donations. Besides funding, we would greatly accept encouragement and constructive advise. We regret this situation for all concerned."

and,

WHEREAS, in the months following the e-mail; staff met and worked with members from the Harvest of Hope organization to better understand the status of the organization as well as the $6,000 the City had advance the organization, and

WHEREAS, at this point, it appears that Harvest of Hope will not be reforming or becoming active in the near future, nor will it have the ability due to several tax issues, to re-pay the City of Modesto the $6,000 or produce receipts for the items purchased, and
WHEREAS, based on the Community Development Block Grant (CDBG) regulations, and Harvest of Hope’s inability to meet the HUD definition of a CBDO, staff is recommending terminating this organization’s CBDO status, and

WHEREAS, the Community Development Committee (CH&CDC) met on February 25, 2005, and accepted staff’s recommendations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby terminates Harvest of Hope as a Community Based Development Organization (CBDO).

BE IT FURTHER RESOLVED that staff is authorized to send a letter to Harvest of Hope with the Council’s resolution, and to notify the Department of Housing and Urban Development (HUD) to remove Harvest of Hope’s CBDO status.

BE IT FURTHER RESOLVED that staff is directed to work with the Department of Housing and Urban Development (HUD) to close out this activity.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-147

A RESOLUTION OPPOSING THE “ELIMINATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING” IN PRESIDENT’S 2006 BUDGET PROPOSAL AND DIRECTING STAFF TO SEND LETTERS OF OPPOSITION TO THE APPROPRIATE LEGISLATIVE COMMITTEES.

WHEREAS, in early January 2005, President Bush released his budget proposal for fiscal year 2006, and

WHEREAS, the 2006 budget covers many different funding proposals, of particular concern for the City of Modesto is the reduction and realignment of the Community Development Block Grant (CDBG) program, and

WHEREAS, while details regarding the 2006 budget proposal are still under study, it appears that the CDBG program will not be included in the Department of Housing and Urban Development (HUD) budget, and

WHEREAS, according to the 2006 HUD budget request, the CDBG Program ($4.853 billion) will either be eliminated completely or transferred into a program within the Department of Commerce, and

WHEREAS, in researching the 2006 budget proposal, HUD’s focus seems to narrow to a variety of housing and homelessness programs, and

WHEREAS, the HOME program, as well as the “Homeless Assistance Grants,” which are funded through Continuum of Care models, and Emergency Shelter Grants, will receive funding increases, and additionally, the American Dream Down Payment Initiative (ADDI) and other mortgage programs will receive additional funds, and

WHEREAS, according to HUD website, the President’s budget “proposes a new program within the Department of Commerce to support communities efforts to meet the goals of improving their economies and their quality of Life. This initiative will
consolidate programs such as Community Development Block Grants into a more targeted, unified program that set accountability standard in exchange for flexible use of the funds,” and

WHEREAS, the Department of Commerce website describes a new program entitled the “Strengthening America’s Communities Grant Program”, and

WHEREAS, this program is a major change in the area of economic development, specifically within the Economic Development Administration (EDA), and

WHEREAS, the new “Strengthening America’s Communities Grant Program” serves to replace duplicative federal economic and community development programs with a more consolidated approach that provides for greater flexibility, accountability and targeting than any of the current approaches, and

WHEREAS, the FY 2006 budget request for the new Strengthening America’s Communities Grant Program is $3.71 billion, and

WHEREAS, currently the following organizations are opposing this section of the President’s proposed budget: National League of Cities, National Association of Counties, National Community Development Association, The United States Conference of Mayors, National Association of Housing and Redevelopment Officials and National Association for County Community and Economic Development, and

WHEREAS, the Community Development Block Grant (CDBG) is an important tool for improving the lives of low-income residents, and

WHEREAS, if the President’s budget proposal passed unchanged by Congress, the end result appears to be at least a $2 million loss in funding per year to the City of Modesto from HUD, and
WHEREAS, beside the lack of on-going activities for the low-income residents of Modesto, the City of Modesto is obligated to make payments to the Section 108 Loan at $361,000 per year ending in FY 2024-2025 from its General Fund, in the event the CDBG funds are eliminated,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby opposes the “Elimination of Community Development Block Grant (CDBG) funding” in President’s 2006 Budget Proposal.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to send letters of opposition to the “Elimination of Community Development Block Grant (CDBG) funding” to the respective legislative committees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-148

A RESOLUTION APPROVING A REQUEST FROM THE MODESTO CITY SCHOOLS CHILD DEVELOPMENT PROGRAM OFFICE FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A CHILDREN’S CONCERT TO BE HELD ON MAY 12, 2005.

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from Modesto City Schools, requesting use of amplified music at Mancini Bowl on Thursday, May 12, 2005, for a children’s concert, and

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

WHEREAS, the Safety and Communities Committee at its February 28, 2005, meeting recommended that the City Council permit the use of amplified music for a children’s concert at Mancini Bowl on May 12, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the Modesto City Schools for the use of amplified music at Mancini Bowl for a children’s concert on May 12, 2005.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-149

A RESOLUTION APPROVING SUBMITTAL OF AN APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE WORKFORCE HOUSING REWARD PROGRAM AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE APPLICATION.

WHEREAS, the State of California Department of Housing and Community Development (HCD) released a Notice of Funding Availability (NOFA) for a program entitled “Workforce Housing Incentive Grant Program” (WFH Program); this is an innovative new program designed to encourage cities and counties to approve new residential housing affordable to lower income households, and

WHEREAS, the WFH Program, funded through the passage of Proposition 46 (Chapter 482, Statutes of 2002), provides grant funds to eligible local governments for every qualifying unit permitted during calendar year 2004; grant awards can be used to fund any capital asset project, such as transportation or park improvements; total fund available for this program is $23 million, and

WHEREAS, in order to qualify for the funding, the City of Modesto must meet the following requirements:

• Housing Element adopted and in compliance by HCD by December 31, 2004
• Submittal of the 2003 Annual Progress Report to HCD by December 31, 2004
• Final land use approvals and building permits for affordable units issued on or after January 1, 2004 through December 31, 2004

and,

WHEREAS, the City has met these requirements through the leadership of the Community and Economic Department; the funding amount is based on the number of final land use and or building permits that were issued in 2004 for affordable housing

03/22/05/ PR&N/J. Hannon/Item No. 17 1 2005-149
units; these units must meet the federal guidelines for affordability and have an
affordability covenant placed on the property, and

WHEREAS, currently, according to staff research, the apartment complex under
construction by STANCO at 3333 Carver is the only project that meets this criterion;
these units were issued a building permit on April 27, 2004, and

WHEREAS, based on the number of units, the City of Modesto will be eligible to
receive $58,000; additionally, because the City of Modesto received funding through this
program last year, we will be awarded additional bonus funding in the amount of
$18,000; in total, the City is eligible for $76,000 from this funding source, and

WHEREAS, the City of Modesto, Parks, Recreation and Neighborhood
Department wishes to submit an application for this funding source to help finance the
Neighborhood Center at Marshall Park,

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

1. Authorizes the execution of a standard agreement and any amendments thereto,
   and any other documents necessary to secure a Workforce Housing Reward Grant
   from the State of California Department of Housing and Community
   Development (HCD), and

2. Agrees that, if the application is approved, the City of Modesto shall be subject to
   the terms and conditions as specified in the standard agreement (Contract); funds
   are to be used for allowable capital asset project expenditures to be identified in
   Attachment A of the Contract; the application in full is incorporated as part of the
   Contract and any and all activities funded, information provided, and timelines
   represented in the application are enforceable through the Contract, and
3. Agrees that the City of Modesto will use the funds for eligible capital asset(s) in the manner presented in the application as approved by the HCD and in accordance with the Notice of Funding Availability (NOFA) and Program Guidelines and Application Package, and

4. Approves the execution of any and all instruments required by the HCD for participation in the Workforce Housing Incentive Grant Program (WFH Program), and

5. Authorizes and appoints the Acting City Manager, or his designee, as agent of the City to submit and execute the application, the Standard Agreement, and all other documents, required by the Department, for participation in the Workforce Housing Incentive Grant Program (WFH Program), and any amendments thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: [Signature]

JBAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-150

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

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

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

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

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

SECTION 1. CLASSIFICATIONS CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

1. Streets Superintendent

Said classification is being created to reflect a recent staffing change in the Public Works Department. The job specification for the classification of Streets Superintendent is shown on the attached Exhibit “A”, which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:
1. Wastewater Collections Superintendent

2. Public Information Technician

Said classifications are being amended to update the essential functions and experience and training guidelines to more accurately reflect the requirements of these classifications.

SECTION 3. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classification:

1. Streets Engineer

Said classification is no longer being used.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after March 22, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
STREETS SUPERINTENDENT

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

DEFINITION

To manage, direct and coordinate the activities of the Streets Division in the Public Works Department including street maintenance and repair and graffiti abatement; to coordinate street maintenance activities with other divisions and departments; to prepare operating and capital budgets; and to provide highly complex staff assistance to the Public Works Director.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from a Deputy Director of Public Works.

Exercises direct supervision over other management, technical, maintenance, and clerical staff.

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

Essential Functions:

Manage, direct and organize a program of street maintenance activities including asphalt and concrete maintenance, pavement markings, traffic signs, and graffiti abatement.

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

Prepare the division's budget; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; review and recommend employee terminations, as needed.
Essential Functions: (Continued)

Review capital improvement plans related to the assigned services and provide input regarding future maintenance activities.

Receive, investigate, and respond to citizen requests, suggestions and complaints.

Check street and related facilities and equipment for needed maintenance and repairs.

Inspect work sites before, during and after completion to assure such is completed in a satisfactory and thorough manner; inspect work sites, equipment and tools for compliance with safety standards; inspect and approve work done by outside contractors.

Attend weekly safety meetings; ensure the adherence to safe work practices by street maintenance personnel.

Prepare various reports and direct special projects as required.

Supervise, train and evaluate assigned staff.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Materials, methods, practices and equipment used in asphalt and concrete maintenance and repair activities, as well as refuse collection.

Types and level of maintenance and repair activities generally performed in a street maintenance and repair program.

Occupational hazards and standard safety precautions necessary in the work.

Principles and practices of supervision, training and personnel management.
Knowledge of: (Continued)

Budgeting procedures and techniques.
Record keeping and reporting procedures.
Safe work practices.

Ability to:

Organize, direct and implement a comprehensive street and sidewalk maintenance program.
Conduct studies, prepare comprehensive reports and determine cost effective ways for conducting the assigned maintenance activities.
Supervise, train and evaluate assigned staff.
Prepare and administer a budget.
Interpret and apply Federal, State and local policies, procedures, laws and regulations.
Establish and maintain cooperative-working relationships with those contacted in the course of work.
Communicate clearly and concisely, both orally and in writing.
Review new and innovative technology and evaluate cost benefit and effectiveness.
Respond to changing work environment through continuous evaluation of work processes and procedures.
Provide a participative management style while encouraging and motivating staff to a goal of team performance.
Experience and Training Guidelines

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

**Experience:**

Five years of increasingly responsible experience, performing street and concrete maintenance work, street sweeping and refuse collection, including three years of supervisory or lead responsibility.

**Training:**

Equivalent to a Bachelor of Arts degree from an accredited college with major course work in civil engineering, construction technology, business administration or a related field.

**License or Certificate**

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

**WORKING CONDITIONS**

**Environmental Conditions:**

Office and field environment.

**Physical Conditions:**

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time and travel from site to site.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-151

A RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2003-178 (MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION MEMORANDUM OF UNDERSTANDING) TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CREATE THE CLASSIFICATION OF STREETS SUPERINTENDENT AT SALARY RANGE 441 ($5565-$6781) AND TO DELETE THE CLASSIFICATION OF STREETS ENGINEER FROM THE CLASS RANGE TABLE.

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

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2003-178. (MCMA Memorandum of Understanding), Resolution No. 2003-178 Effective April 8, 2003, is hereby amended as shown on the amended Exhibit “A” entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective September 7, 2004, which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit “A” establishes the salary range for Streets Superintendent at Range 441 and deletes the Streets Engineer from the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after March 22, 2005.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: 

JEAN ZAHR, City Clerk
<table>
<thead>
<tr>
<th>RANGE</th>
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<tbody>
<tr>
<td>403</td>
<td>Administrative Office Assistant I (Confidential)</td>
</tr>
<tr>
<td>407</td>
<td>Administrative Clerk II (Confidential)</td>
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<td>Administrative Office Assistant II (Confidential)</td>
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<tr>
<td>411</td>
<td>Administrative Office Assistant III (Confidential)</td>
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<td>Police Clerk II (Confidential)</td>
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<td>Administrative Technician (Confidential)</td>
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<td>415</td>
<td>Senior Administrative Office Assistant (Confidential)</td>
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<td>418</td>
<td>Legal Secretary</td>
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<td>Systems Technician I</td>
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<td>Public Information Technician (Confidential)</td>
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<td>Deputy City Clerk</td>
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<td>Executive Secretary (Represented)</td>
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<td>Legal Services Technician</td>
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Exhibit “A”
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<tr>
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<tbody>
<tr>
<td>422</td>
<td>Office Supervisor  Utility Dispatch Supervisor  Workers' Compensation Claims Examiner I  Systems Technician II</td>
</tr>
<tr>
<td>423</td>
<td>Custodian Supervisor</td>
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<tr>
<td>424</td>
<td>Assistant Planner  Buyer  Police Facilities Coordinator</td>
</tr>
<tr>
<td>425</td>
<td>Administrative Analyst I</td>
</tr>
<tr>
<td>426</td>
<td>Police Civilian Supervisor  Stores Manager  Systems Technician III</td>
</tr>
<tr>
<td>427</td>
<td>Assistant City Clerk/Auditor  Legal Services Administrator  Workers' Compensation Claims Examiner II</td>
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<tr>
<td>428</td>
<td>Accountant II (Represented)  Senior Buyer</td>
</tr>
<tr>
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<td></td>
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<tr>
<td>430</td>
<td>Associate Planner  Community Services Supervisor  Events Supervisor I  Junior Civil Engineer  Junior Traffic Engineer  Senior Crime Analyst  Software Analyst I</td>
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<tr>
<td>431</td>
<td>Administrative Analyst II  Assistant Risk Manager  Budget Analyst I  Personnel Analyst  Recycling Program Coordinator  Senior Community Development Program Specialist</td>
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Exhibit “A”
<table>
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| 432   | Communications Specialist  
Customer Services Supervisor  
Neighborhood Preservation Supervisor  
Operations and Maintenance Supervisor  
Recreation Supervisor II  
Senior Accountant  
Water Quality Control Maintenance Supervisor  
Water Quality Control Operations Supervisor |
| 433   | Organizational Development Specialist |
| 434   | Assistant Civil Engineer  
Assistant Traffic Engineer  
Budget Analyst II  
Events Supervisor II  
Environmental Laboratory Supervisor  
Operations Supervisor  
Regulatory Compliance Supervisor  
SCADA Supervisor  
Senior Housing Rehabilitation Specialist  
Software Analyst II  
Systems Engineer I |
| 435   | Business Analyst  
Cultural Services Manager  
Integrated Waste Specialist  
Management Analyst  
Senior Personnel Analyst |
| 436   | Electrical Supervisor  
Senior Planner |
<p>| 437   | |</p>
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<tr>
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| 438   | Budget Officer  
       | Housing Program Supervisor  
       | Land Surveyor  
       | Property Agent  
       | Purchasing Supervisor  
       | Senior Business Analyst  
       | Software Analyst III  
       | Systems Engineer II |
| 439   | Administrative Services Officer  
       | Community Facilities Districts Administrative Officer |
| 440   | Associate Civil Engineer  
       | Associate Traffic Engineer  
       | Transportation Planner |
| 441   | Airport Manager  
       | Building Maintenance Superintendent  
       | Fire Marshal  
       | Fleet Manager  
       | Housing and Urban Development Manager  
       | Parks Operations Superintendent  
       | Parks Planning and Development Manager  
       | Recreation Superintendent  
       | Solid Waste Program Manager  
       | Streets Superintendent  
       | Transit Manager  
       | Urban Forestry Superintendent  
       | Wastewater Collections Superintendent  
       | Water Superintendent |
| 442   | Customer Services Division Manager  
       | Manager of Budget and Financial Analysis  
       | Software Analyst IV  
       | Supervising Building Inspector  
       | Supervising Construction Inspector  
       | Systems Engineer III |
| 443   | Deputy Chief Building Official  
       | Principal Planner |

Exhibit "A"
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<tr>
<td>445</td>
<td>Accounting Division Manager</td>
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<tr>
<td>446</td>
<td>Water Quality Control Superintendent Information Technology Unit Manager</td>
</tr>
<tr>
<td>447</td>
<td>Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer</td>
</tr>
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<td>448</td>
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<td>449</td>
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<td>455</td>
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Exhibit "A"
A RESOLUTION ORDERING THE CITY ENGINEER TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6.

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-153

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in accordance with the provisions

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
RESOLUTION ACCEPTING THE WORK BY PROFESSIONAL CONSTRUCTION SERVICES FOR THE "MODIFICATION OF TRAFFIC SIGNALS AT STANDIFORD/COLONIAL, EL VISTA/ENCINA AND TULLY/RUMBLE INTERSECTIONS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $213,841.59 PER THE CONTRACT. TOTAL PROJECT COST IS $269,003.52.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modification of Traffic Signals at Standiford/Colonial, El Vista/Encina and Tully/Rumble Intersections" has been completed by Professional Construction Services in accordance with the contract agreement dated October 7, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Modification of Traffic Signals at Standiford/Colonial, El Vista/Encina and Tully/Rumble Intersections" project be accepted from said contractor, Professional Construction Services, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $213,841.59, 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 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-155

A RESOLUTION ACCEPTING THE BID AND APPROVING A $993,256.50 CONTRACT WITH TOP GRADE CONSTRUCTION, INC., FOR THE PROJECT TITLED, “2003-2004 PAVEMENT MAINTENANCE PROGRAM – COFFEE ROAD RECONSTRUCTION FROM 365’ NORTH OF SYLVAN AVENUE TO 2,500’ NORTH OF SYLVAN AVENUE - STPL-5059 (108),” AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the bids received for “2003-2004 Pavement Maintenance Program – Coffee Road Reconstruction From 365’ North of Sylvan Avenue To 2,500’ North of Sylvan Avenue - STPL-5059 (108)” were opened at 11:00 a.m. on February 22, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $993,256.50 received from Top Grade Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Top Grade Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Top Grade Construction, Inc., in the amount of $993,256.50, and hereby awards Top Grade Construction, Inc., the contract titled “2003-2004 Pavement Maintenance Program – Coffee Road Reconstruction From 365’ North of Sylvan Avenue To 2,500’ North of Sylvan Avenue - STPL-5059 (108).”

BE IT FURTHER RESOLVED that the Acting 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 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHR, City Clerk
RESOLUTION ACCEPTING THE WORK BY CLAYBORN CONTRACTING GROUP, INC., FOR THE “CONSTRUCT ELECTRICAL VAULT BUILDING, RELOCATE/UPGRADE ELECTRICAL VAULT EQUIPMENT, AND INSTALL EMERGENCY GENERATOR” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $348,287.78 PER THE CONTRACT. TOTAL PROJECT COST IS $479,667.62.

WHEREAS, a report has been filed by the Public Works Director that the project titled “Construct Electrical Vault Building, Relocate/Upgrade Electrical Vault Equipment, and Install Emergency Generator” has been completed by Clayborn Contracting Group, Inc., in accordance with the contract agreement dated September 23, 2003.

NOW, THEREFORE, BE IT RESOLVED that the “Construct Electrical Vault Building, Relocate/Upgrade Electrical Vault Equipment, and Install Emergency Generator” project be accepted from said contractor, Clayborn Contracting Group, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $348,287.78 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 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM: 
By Michael D. Milich, City Attorney
RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE “CENTRE PLAZA LIGHTING CONTROLS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $246,900 PER THE CONTRACT. TOTAL PROJECT COST IS $258,342.

WHEREAS, a report has been filed by the Public Works Director that the project titled “Centre Plaza Lighting Controls” has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated June 22, 2004.

NOW, THEREFORE, BE IT RESOLVED that the “Centre Plaza Lighting Controls” project be accepted from said contractor, Collins Electrical Company, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $246,900, 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 22nd day of March 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

ATTEST: Jean Zahr

APPROVED AS TO FORM:
By MICHAEL D. MILICH, City Attorney
RESOLUTION ACCEPTING THE WORK BY RICHARD A. HEAPS ELECTRICAL CONTRACTOR, INC., FOR THE “INSTALLATION OF TRAFFIC SIGNAL DETECTOR LOOPS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $195,648 PER THE CONTRACT. TOTAL PROJECT COST IS $254,203.

WHEREAS, a report has been filed by the Public Works Director that the project titled “Installation of Traffic Signal Detector Loops” has been completed by Richard A. Heaps Electrical Contractor, Inc., in accordance with the contract agreement dated November 25, 2003.

NOW, THEREFORE, BE IT RESOLVED that the “Installation of Traffic Signal Detector Loops” project be accepted from said contractor, Richard A. Heaps Electrical Contractor, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $195,648, 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 22nd day of March, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:  

APPROVED AS TO FORM:

By ____________________________
MICHAEL D. MILICH, City Attorney

03/22/05/ PW/P Marquez/Item No 26 1 2005-158
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-159

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $43 MILLION PRINCIPAL AMOUNT OF WASTEWATER REVENUE REFUNDING BONDS, SERIES 2005A AND 2005B (TAXABLE), AUTHORIZING AND DIRECTING EXECUTION OF A WASTEWATER REVENUE BOND INDENTURE AND A FIRST AND SECOND SUPPLEMENT THERETO, APPROVING A CONTRACT OF PURCHASE, ESCROW AGREEMENTS, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE AGREEMENT AND AUTHORIZING OTHER OFFICIAL ACTION

WHEREAS, pursuant to the City of Modesto Wastewater Treatment Facilities Revenue Bond Law, constituting Chapter 6 of Title VIII of the Modesto Municipal Code (the "Bond Law"), the City of Modesto, California (the "City") is authorized to issue revenue bonds to provide funds to finance the costs of the acquisition, construction, improvement, furnishing, equipping, remodeling, repair, reconstruction or rehabilitation of the wastewater treatment facilities of the City (the "Enterprise") or for the purpose of refunding bonds issued for such purposes; and

WHEREAS, in accordance with the Bond Law and an Indenture of Trust, dated as of December 1, 1987 (the "Prior Indenture"), the City previously issued its Wastewater Treatment Facility Refunding Bonds, Series 1987, in an aggregate principal amount of to provide funds to advance refund certain outstanding wastewater revenue bonds; and

WHEREAS, in accordance with the Bond Law and the Prior Indenture, as amended and supplemented by a First Supplemental Indenture, dated as of September 1, 1993, the City previously issued its Wastewater Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), in an aggregate principal amount of $8,555,000 to finance the acquisition and construction of improvements to the Enterprise; and
WHEREAS, in accordance with the Bond Law and the Prior Indenture, as amended and supplemented, including as amended and supplemented by a Second Supplemental Indenture, dated as of August 1, 1996, the City previously issued its Wastewater Treatment Facility Refunding Revenue Bonds, Series 1996, in an aggregate principal amount of $8,695,000 to provide funds to current refund the 1987 Bonds, and

WHEREAS, in accordance with the Bond Law and the Prior Indenture, as amended and supplemented, including as amended and supplemented by a Third Supplemental Indenture, dated as of April 1, 1997 (the “Third Supplemental Indenture”), the City has previously issued its Wastewater Treatment Facility Revenue Bonds, Series 1997 (the “Series 1997 Bonds”) in an aggregate principal amount of $32,400,000 to finance the acquisition and construction of improvements to the Enterprise; and

WHEREAS, the City, after due investigation and deliberation, has determined that it is in the interests of the City at this time to issue its Wastewater Revenue Refunding Bonds, Series 2005A (the “Series 2005A Bonds”) and its Wastewater Revenue Refunding Bonds, Series 2005B (Taxable) (the “Series 2005B Bonds” and collectively with the Series 2005A Bonds, the “Series 2005 Bonds”), in an aggregate principal amount not to exceed $43 million under the Bond Law to provide funds to current refund the outstanding Series 1993 Bonds and to advance refund the outstanding Series 1996 Bonds and Series 1997 Bonds; and

WHEREAS, the 2005 Bonds are proposed to be issued pursuant to the Wastewater Revenue Bond Indenture as supplemented by the First Supplemental Wastewater Revenue Bond Indenture and the Second Supplemental Wastewater Revenue Bond Indenture described below; and
WHEREAS, the 2005 Bonds are proposed to be sold to Banc of America Securities LLC (the “Underwriter”) pursuant to the Contract of Purchase described below; and

WHEREAS, it is proposed that the City execute and deliver the Escrow Agreements described below to provide for the refunding of the outstanding Series 1993 Bonds, Series 1996 Bonds and Series 1997 Bonds; and

WHEREAS, it is proposed that the City execute and deliver the Continuing Disclosure Agreement described below to allow the Underwriter to comply with Rule 15c2-12(b)(5) of the Securities Exchange Act of 1934; and

WHEREAS, all acts, conditions and things required by the Bond Law and the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the sale and issuance of the Series 2005 Bonds authorized hereby do exist, have happened and have been performed in regular and due time, form and manner required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to issue and sell the Series 2005 Bonds for the purpose, in the manner and upon the terms herein provided;

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

The City Council hereby authorizes the issuance of its Wastewater Revenue Refunding Bonds, Series 2005 in an aggregate principal amount not to exceed $43 million.

The City Council hereby approves the form of the Wastewater Revenue Bond Indenture (the “Master Indenture”), the First Supplemental Wastewater Revenue Bond
Indenture (the "First Supplement") and the Second Supplemental Wastewater Revenue Bond Indenture (the "Second Supplement" and collectively with the Master Indenture and the First Supplement, the "Indenture"), each dated as of April 1, 2005, each by and between the City and U.S. Bank National Association (the "Trustee") in substantially the forms on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Sidley Austin Brown & Wood LLP, Bond Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer's approval of any such additions and changes. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized and directed to execute, and the City Clerk is authorized and directed to attest to said signature on, the final forms of the Master Indenture, the First Supplement and the Second Supplement for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Master Indenture, the First Supplement and the Second Supplement.

The proposed form of the Series 2005A Bonds as set forth in the First Supplement, and the proposed form of the Series 2005B Bonds as set forth in the Second Supplement, are hereby approved and the Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is hereby authorized and directed to execute for and on behalf of the City the Series 2005 Bonds in substantially such forms and the City Clerk is authorized and directed to attest to said signature on the Series 2005 Bonds, and the Trustee is hereby authorized and directed to authenticate and deliver the Series 2005 Bonds to the
Underwriter in accordance with the Indenture and the Contract of Purchase approved herein, subject to the limitations set forth in Section 3 hereof.

The City Council hereby approves the form of the Contract of Purchase (the “Contract of Purchase”) by and between the City and the Underwriter in substantially the form on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Bond Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer's approval of any such additions and changes; provided, however, that the Underwriter’s discount shall not exceed 0.75% of the principal amount of the Series 2005 Bonds, the true interest cost of the Series 2005 Bonds shall not exceed 5.0% per annum, the net present value savings to be derived from the refunding of the Series 1993 Bonds, the Series 1996 Bonds and the Series 1997 Bonds shall be not less than 3.0% of the refunded bonds, and the final maturity of the Series 2005 Bonds shall be not later than November 1, 2022. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized and directed to execute the final form of the Contract of Purchase for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Contract of Purchase.

The City Council hereby approves the form of each of the Escrow Agreements relating to the defeasance of the Series 1993 Bonds, the Series 1996 Bonds and the Series 1997 Bonds, respectively (collectively, the “Escrow Agreements”) by and between the City and the Trustee in substantially the forms on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Bond
Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer’s approval of any such additions and changes. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized and directed to execute the final forms of the Escrow Agreements for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Escrow Agreements.

The City Council hereby approves the form of the Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) by and between the City and the Trustee in substantially the form on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Bond Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer’s approval of any such additions and changes. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized and directed to execute the final form of the Continuing Disclosure Agreement for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Continuing Disclosure Agreement.

The City Council hereby approves the form of preliminary official statement of the City relating to the Series 2005 Bonds (the “Preliminary Official Statement”) in substantially the form submitted to this City Council. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized to certify that the Preliminary Official Statement, with such changes therein as the officer so certifying shall approve after consultation with
Bond Counsel, is as of its date “deemed final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance is authorized and directed to execute for and on behalf of the City a final official statement, in substantially the form of the Preliminary Official Statement, with such changes therein (and additions thereto to reflect the terms of the sale of the Series 2005 Bonds) as the Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance shall approve after consultation with Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The Underwriter is authorized to distribute copies of the Preliminary Official Statement to persons who may be interested in the purchase of the Series 2005 Bonds, and the Underwriter is directed to deliver copies of any final official statement to all actual purchasers of the Series 2005 Bonds.

All actions heretofore taken by the officers and agents of the City with respect to the issuance of the Series 2005 Bonds are hereby approved, confirmed and ratified. The Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance Director or the Deputy Director of Finance, the City Clerk, the City Attorney and any and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, necessary to effectuate the purposes of this Resolution, including the negotiating and obtaining of a municipal bond insurance policy, debt service reserve surety bond or investment agreement for any funds and accounts held under the Indenture if the Mayor, the City Manager, the Acting City Manager, the Finance Director, the Acting Finance
Director or the Deputy Director of Finance, upon the advice of Public Financial Management, Inc., Financial Advisor, determine that such policy, bond or agreement will result in debt service servings or will otherwise be financially advantageous to the City, and the execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance, sale and delivery of the Series 2005 Bonds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March 2005, by Councilmember Jackman who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the Resolution adopted by the following vote:

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

NOES: Councilmembers: None

AYES: Councilmembers: Marsh

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-160

A RESOLUTION DESIGNATING THE PROPERTY AT 215 ELMWOOD COURT AS A MODESTO LANDMARK PRESERVATION SITE (OWNERS: ROBERT AND DENISE DRAIZEN)

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve, enhance and perpetuate significant landmarks in the community, and

WHEREAS, a public hearing was held on January 24, 2005 at the McHenry Museum, 1402 I Street, Modesto, California, in which the Landmark Preservation Commission found and recommended by Resolution No. 2005-1, that the property at 215 Elmwood Court is eligible for designation as a Landmark Preservation Site for the following reasons:

(1) The location and setting is compatible with future preservation and use.
(2) The physical condition is such that preservation maintenance or adaptive use is economically feasible.
(3) The distinguishing characteristics of significance are for the most part original and intact or capable of restoration.
(4) The existing or proposed use is compatible with the preservation and maintenance of the site

and

WHEREAS, the Safety and Communities Committee met on February 28, 2005 and supported the Landmark Preservation Commission recommendation, and

WHEREAS, after a public hearing held on March 22, 2005, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council found and determined that the property at 215 Elmwood Court is eligible for designation as a Landmark Preservation Site for reasons set forth by the Landmark Preservation Commission,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 215 Elmwood Court is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the property at 215 Elmwood Court has historical significance for the following reason:

This 1933 Mediterranean-style house was originally owned by Dr. J.C. Robertson, founder of Robertson Hospital, one of the three private hospitals located in Modesto until after World War II. Dr. J.C. Robertson formerly lived at 1002 12th Street in Modesto around the corner from the hospital that bore the family name. By 1930 the hospital expanded to include the Robertson home. In 1933 Dr. Robertson built the house at 215 Elmwood Court to accommodate his family. His son, Dr. Donald Robertson, kept the hospital until 1950 when it was closed and sold to banking interests. In 1920, Dr. J.C. Robertson and a group of professional and business people purchased the Modesto Herald Newspaper, known at the time as the "official paper of the City of Modesto". The Robertson's contributed tremendously to the medical community of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the property at 215 Elmwood Court has architectural significance as a Mediterranean-style house from the 1930's and is hereby designated a Landmark Preservation Site for the following reason:

Architectural significance-Possessing distinctive characteristics of a style, place, period, method or materials or construction, builder or architect.

Built in 1933, this two-story, Mediterranean-style stuccoed house has a red tile roof with heavy exposed rafters. A medium pitched gable forms an open porch over the side facing entrance, which is a wood-paneled door. A square stuccoed post at the front corner supports the porch. A low-hipped tile roof caps the front two-story portion of the building. A wrought iron balcony is located on the second floor facing the street. Multi-paned casement windows are located on the first floor of the structure and an exterior chimney projects from the gabled one-story section of the house. The opening of the Panama Canal in 1914 and the San Diego Panama Pacific Exposition in 1915 inspired a variety of Mediterranean styles between 1915 and 1940.
BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder’s Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 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, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION APPROVING THE CHANGES TO THE SPRING AND SUMMER PARK PROGRAMS, AND APPROVING LIFTING THE "HIRING CHILL" TO ALLOW THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO HIRE PART-TIME RECREATION STAFF FOR THE "REVISED" SPRING AND SUMMER PARK PROGRAMS.

WHEREAS, in prior years, the Parks, Recreation and Neighborhoods Department (PR&N) operated Spring, Summer, and Fall Park Programs; these programs operated for 30 weeks from approximately mid-February to mid-November at park sites throughout the City, and

WHEREAS, due to several years of budget reductions, the program originally planned for this upcoming park season has been reduced to a seven-week Spring Program, scheduled from April 25 to June 10, and a nine-week Summer Program scheduled from June 13 to August 19, 2005; during the spring, the program was planned for 11 park sites throughout the City, and the summer program offered at 19 sites, and

WHEREAS, generally, the park sites are staffed with two Recreation Leaders, except Graceada Park, which requires three to four leaders, due to the large daily attendance; both the Spring and Summer programs are funded from the General Fund and include daily youth development activities such as arts and crafts, physical fitness, games, and swimming; the activities also include traveling programs, which features special park visitors, such as the First Tee Program, MJC Great Valley Museum, Bungee Run, Stonehenge Climbing Wall, HART traveling art, Cooking with Christa, Python Ron, and the Pinewood Derby, and
WHEREAS, on February 8, 2005, by Resolution No. 2005-94, the City Council adopted several provisions to help slow spending in the current fiscal year; one of these adopted actions was “implementation of a hiring “chill” for both full and part-time staff for any position with General Fund impact with the exceptions for mission-critical positions only,” and

WHEREAS, in order to staff appropriately for the upcoming Park Programs, the Parks, Recreation and Neighborhoods Department needs to hire a total of 56 Recreation Leaders (28 leaders for the Spring Program and an additional 28 for the Summer Program); the 28 Recreation Leaders for the Spring Program will need to be hired by April 1 in order to be processed and to receive the proper certifications and basic job training; shortly thereafter, the Department will need to hire an additional 28 Recreation Leaders for the Summer Program, and

WHEREAS, on February 23, 2005, the Finance Committee considered the topic of the hiring chill as it relates to the Spring and Summer Park Programs, due to the looming timeline regarding hiring of staff for these programs, and

WHEREAS, after significant discussion, the Finance Committee recommended that PR&N reduce the costs of the Spring and Summer Park Programs by $80,000 to $100,000; the proposed program reduction recommendations were to go directly to City Council, rather than return to the Finance Committee, due to the timeliness of the issue, and

WHEREAS, after review, the PR&N is recommending the following program reductions in order to meet current and future budget target figures:
Spring 2005: PR&N is recommending closing all park sites, except for Graceada Park which will be open on Fridays, Saturdays and Sundays only through the spring season (April 25 to June 10); the closure of 10 park sites programs resulting in savings of $47,000;

Summer 2005-2006: PR&N is recommending closing six of the existing 19 park sites; there will be no staffed park program at these six sites and the wading pools at these parks will be permanently closed and the areas re-landscaped; this recommendation would save approximately $88,800; however, PR&N is recommending $58,800 of this saving be used to install a “spray-ground” at Mellis Park and add a staffed recreation program at Orville Wright Park; in total, 14 playground sites will operate during the 2005-2006 summer season, and the net savings for the Summer Park Program will be $30,000;

Spring 2006: PR&N is recommending following the Spring 2005 schedule and closing all park sites, except for Graceada Park which will be open on Fridays, Saturdays and Sundays only through the spring season; this would result in savings of $47,000; and

WHEREAS, all the above recommendations will result in the following savings:

- Spring 2005: $47,000
- Summer 2005-2006: $30,000
- Spring 2006: $47,000

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the changes to the Spring and Summer Park Programs
recommended by the Parks, Recreation and Neighborhoods Department, as more fully set forth herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves lifting the “hiring chill” and authorizes the Parks, Recreation and Neighborhoods Department to hire 56 part-time Recreation staff, 28 Recreation Leaders each for the “revised” Spring and the “revised” Summer Park Programs as more fully set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of March, 2005, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: Marsh

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-162  

A RESOLUTION APPOINTING KEITH BOGGS TO  
THE PUBLIC EVENTS COMMISSION  

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

WHEREAS, Councilmember Keating recommended the appointment of KEITH BOGGS to serve on the Public Events Commission to fill the vacancy created by the resignation of DANA PLUMMER.  

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

SECTION 1. KEITH BOGGS is hereby appointed to serve on the Public Events Commission to fill the vacancy created by the resignation of DANA PLUMMER.  

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Public Events Commission, and the Secretary thereof.  

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2005, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:  

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

NOES:  Councilmembers: None  

ABSENT:  Councilmembers: None  

ATTEST:  

Jeff Zahm  
City Clerk  

APPROVED AS TO FORM:  

By:  

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-163

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE
PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT OF THE CITY
OF MODESTO AND RESCINDING RESOLUTION NO. 2004-478

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of April 5, 2005 considered the adoption
of amended conflict of interest codes for various City departments, including the Parks,
Recreation & Neighborhoods Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts an amended Conflict of Interest Code for the Parks, Recreation &
Neighborhoods Department of the City of Modesto as submitted, a copy of which Code is
attached hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-478 adopted by the
Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 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

APPROVED AS TO FORM

BY: ____________________________
MICHAEL D. MILICH, City Attorney

ATTEST: ________________________
JEAN ZAHR, City Clerk
CONFLICT OF INTEREST CODE
OF THE
PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Parks, Recreation and Neighborhoods Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
<table>
<thead>
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<th>Designated Positions</th>
<th>Disclosure Category</th>
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<tbody>
<tr>
<td>Administrative Analyst II</td>
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<td>Recreation Superintendent</td>
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Recreation Supervisor II 2
Recycling Program Coordinator 1
Senior Building Inspector 2
Senior Community Development Program Specialist 2
Senior Housing Rehabilitation Specialist 2
Solid Waste Program Manager 1
Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment.

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-164

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
AMENDING THE CONFLICT OF INTEREST CODE FOR THE PUBLIC
WORKS DEPARTMENT OF THE CITY OF MODESTO AND RESCINDING
RESOLUTION NO. 2004-481

WHEREAS, pursuant to Government Code Section 87300, every local agency
must adopt a conflict of interest code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City
agencies/departments which have adopted conflict of interest codes, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the
code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of April 5, 2005 considered the adoption
of amended conflict of interest codes for various City departments, including the Public
Works Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of
Modesto hereby adopts an amended Conflict of Interest Code for the Public Works
Department of the City of Modesto as submitted, a copy of which Code is attached
hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-481 adopted by the
Council is hereby rescinded.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 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
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

BY: Michael D. Milich, City Attorney

MICHAEL D. MILICH, City Attorney
CONFLICT OF INTEREST CODE
OF THE
PUBLIC WORKS DEPARTMENT
OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Public Works Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the Office of the City Clerk & Auditor.
### Designated Positions

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<thead>
<tr>
<th>Designated Positions</th>
<th>Disclosure Category</th>
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</thead>
<tbody>
<tr>
<td>Administrative Analyst II</td>
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</tr>
<tr>
<td>Administrative Services Officer</td>
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</tr>
<tr>
<td>Airport Maintenance Crewleader</td>
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<tr>
<td>Airport Manager</td>
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<tr>
<td>Associate Civil Engineer</td>
<td>1</td>
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<tr>
<td>Associate Traffic Engineer</td>
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</tr>
<tr>
<td>Construction Inspector</td>
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<tr>
<td>Consultant</td>
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<tr>
<td>Deputy Director of Public Works</td>
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<tr>
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<tr>
<td>Environmental Compliance Inspector</td>
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<tr>
<td>Operations &amp; Maintenance Supervisor (Org #s 5012-5016, 5212, 5312 only)</td>
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<td>Wastewater Collection Superintendent</td>
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</table>
Water Quality Control Operations Supervisor  2
Water Quality Control Maintenance Supervisor  2
Water Superintendent  1
Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

**Group 1:** Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

**Group 2:** Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment.

**Group 3:** A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-165

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT WITH GEORGE BRITTON TO SERVE AS CITY MANAGER OF THE CITY OF MODESTO UNTIL JULY 1, 2007, AT AN ANNUAL SALARY OF $154,010.00

WHEREAS, on March 22, 2005, the City Council on a 5 to 1 vote appointed then Acting City Manager George Britton as City Manager, and

WHEREAS, the City Council desires to enter into an employment agreement with George Britton to serve as City Manager of the City of Modesto until July 1, 2007, at an annual salary of $154,010.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign an employment agreement with George Britton to serve as City Manager of the City of Modesto until July 1, 2007, at an annual salary of $154,010.00. Said employment agreement is attached hereto as Exhibit "A" and incorporated herein by this reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________________________

MICHAEL D. MILICH, City Attorney
CITY OF MODESTO - GEORGE W. BRITTON
EMPLOYMENT AGREEMENT

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EMPLOYMENT AGREEMENT

Introduction
This agreement, made and entered into this 5th day of April, 2005, by and between the CITY OF MODESTO, a municipal corporation, (hereinafter called “Employer”), and GEORGE W. BRITTON (hereinafter called “Employee”), an individual who has the California education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Term
The term of this Agreement shall be for an initial period of two (2) years and approximately four (4) months from April 5, 2005, to July 1, 2007. This Agreement shall automatically be renewed on its anniversary date for a one (1) year term unless notice that the Agreement shall terminate is given at least four (4) months before the expiration date. In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

Section 2: Duties and Authority
Employer agrees to employ George W. Britton as City Manager to perform the functions and duties specified in the Modesto Charter and the California Government Code, and to perform other legally permissible and proper duties and functions.

Section 3: Compensation
A. Base Salary: Employer agrees to pay Employee an annual base salary of One Hundred Fifty Four Thousand Ten Dollars ($154,010.00) payable in installments at the same time that the other employees of the Employer are paid.

B. Consideration shall be given on an annual basis to increase compensation.

Section 4: Disability and Life Insurance Benefits
A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents equal to that which is provided to all other Management and Confidential employees of the City of Modesto or, in the event no such plan exists, to provide coverage for the Employee and dependents.

B. The Employer agrees to put into force and to make required premium payments for long term disability coverage for the Employee.

C. The Employee may elect to submit once per calendar year to a complete physical examination by the City medical provider or by the Employee’s physician under the Employee’s group insurance plan with City reimbursement for Employee’s out-of-pocket costs.

D. The Employer shall pay the amount of premium due for a term life insurance policy of $120,000. The Employee shall name the beneficiary of the life insurance policy.
Section 5: Vacation, Sick, and Management/Executive Leave
A. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees.

B. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee’s employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, management/executive leave, and other benefits to date.

C. The Employee shall on January 1st of each calendar year be credited with eighty (80) hours of executive/management leave or the highest amount credited to any non-sworn management employee, whichever is greater.

Section 6: Automobile
The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of $4,800.00 per year, payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

Section 7: Retirement
A. The Employer agrees to enroll the Employee into the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay 0.40% of the total 7% “Employee’s share,” and Employer shall pay 100% of “Employer’s share” on behalf of the Employee.

B. In addition to the Employer’s payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee’s continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to one and one-half percent (1.5%) of Employee’s base salary, or greater, into the designated plan on the Employee’s behalf, in equal proportionate amounts each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee’s retirement benefit.

C. The Employer shall adopt a qualified 401(a) defined contribution plan offered through ICMA Retirement Corporation for the Employee in the form of a money purchase plan to which the Employer shall contribute four (4%) of salary. Employee shall match the Employer’s contribution.
Section 8: General Business Expenses
A. In its discretion, Employer shall budget for and pay travel and subsistence expenses of Employee for professional and official travel, meetings, courses, institutes and seminars to continue his professional development and to adequately pursue necessary official and other functions on behalf of the Employer, including but not limited to the annual conference of the League of California Cities.

B. The Employer acknowledges the value of having Employee, in its discretion, participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination
For the purpose of this Agreement, termination shall occur when:

A. The majority of the governing body votes to terminate the Employee at a duly authorized closed or open meeting.

B. If the Employer, citizens or legislature acts to amend any provisions of the Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee’s position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all city employees, such action shall constitute a breach of this Agreement and will be regarded as a termination.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.

E. Breach of contract declared by either party within a 30-day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

Section 10: Severance
A. Severance shall be paid to the Employee when employment is terminated as defined in Section 9.

B. In the event the Employer terminates this agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:

1. Provide Employee with one hundred thirty-five (135) days prior written notice of said termination. Provided, however, that as set forth in Section 800 of the City’s Charter no such determination to terminate shall be made during or within a period of ninety (90) days next succeeding the election of a member of the Council.
Section 11: Resignation
In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 60 days advance notice unless the parties agree otherwise.

Section 12: Performance Evaluation
Employer shall annually review the performance of the Employee in January subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

Section 13: Hours of Work
It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Outside Activities
The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect, with the approval of the City Council, to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement.

Section 15: Residency
Employee agrees to maintain residence within the corporate boundaries of the City of Modesto.

Section 16: Indemnification
Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager, or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.
Employee recognizes that Employer shall have the right to compromise or settle a claim or suit. However, if the Employee is a named party to the suit, Employee’s written consent must be given for the compromise or settlement. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee’s service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation if those services occur after Employee is no longer an Employee of the Employer.

Section 17: Bonding
Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 18: Other Terms and Conditions of Employment
The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 19: Notices
Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

Employer: City Clerk, City of Modesto, P. O. Box 642, Modesto, CA 95353
Employee: George W. Britton, 1008 Copper Lake Court, Modesto, CA 95355-8905

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

Section 20: General Provisions
A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on April 5, 2005.
D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attestation by its City Clerk under authority of Resolution No. 2005-165 adopted by the Council of the City of Modesto on the 5th day of April, 2005, and CONTRACTOR/EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO
A Municipal Corporation

By: Jim Ridenour, Mayor

CONTRACTOR/EMPLOYEE

By: George W. Britton

ATTEST:

By: Jean Zahn

Jean Zahn, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on March 7, 2005, and recommended appointment of AMY CHRISTENSEN and HARINDER GREWAL to the Equal Opportunity/Disability Commission and JOE MENDOZA to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission, and

WHEREAS, by Resolution No. 2005-136, said appointments were erroneously made as joint appointments to the Equal Opportunity/Disability Commission and the Human Relations Commission, and

WHEREAS, JOE MENDOZA is the only appointee to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission.

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

SECTION 1. AMY CHRISTENSEN and HARINDER GREWAL are hereby appointed to the Equal Opportunity/Disability Commission, with term expiration of January 1, 2009, and JOE MENDOZA is hereby appointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission 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 appointed members of the Equal Opportunity/Disability Commission and Human Relations Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 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

APPROVED AS TO FORM: 

ATTEST: 

By: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-167

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 5th day of April 2005, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Jackman, was
upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tina Rocha
Telephone No.: Ext. 75321
Department: Office of the City Manager
Fund Title: CFD No. 1996-1 (Village One)

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

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<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
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<td>($1,292,100)</td>
<td>($60,000)</td>
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TRANSFERS

| FROM              |            | $60,000 | $60,000 | Transfer to Village One |
| 1410-800-A107-7260|            |        |         |                        |
| TO                |            | $60,000 | $60,000 | Transfer from Streets CFF |
| 2600-020-A107-9141|            |        |         |                        |

COMMENTS/JUSTIFICATION

The budget for this Floyd Ave. widening project was recently modified in a Village One Facilities Master Plan Update. This budget adjustment includes $60,000 from Streets CFF for the Floyd Oakdale Signal modification.

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<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
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<td>DEPARTMENT DIRECTOR/</td>
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<td>AUTHORIZED ASSISTANT</td>
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<td>(Allocation of Dept Appr to Line-Item Level)</td>
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<td>FINANCE DIRECTOR</td>
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<td>(Transfers to/from Internal Service Charges)</td>
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<td>(All items requiring City Manager's Approval)</td>
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<td>CITY MANAGER</td>
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<td>(Transfers between Budgeted Activities of Departments within Funds)</td>
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<td>(Appropriation of Unbudgeted Dept Revenues)</td>
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<tr>
<td>(Transfers into Personnel Services)</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2005-168

A RESOLUTION ALLOCATING A NEW POLICE OFFICER POSITION TO THE MODESTO POLICE DEPARTMENT TO WORK ON THE HIGH RISK INTERVENTION TEAM

WHEREAS, Modesto City School District has proposed a “High Risk Intervention Team” to work with at-risk juveniles who are on probation and show promise of rehabilitation, and

WHEREAS, these juveniles will be tracked and assisted by a Probation Officer, a Modesto Police Officer and a school official, and

WHEREAS, the Modesto Police Officer will handle scheduled in-office visits with the juveniles and their parents, to offer them direction and any needed assistance, and

WHEREAS, Modesto City School District will pay for all costs of the Police Officer, salary, benefits and incentives, and will reimburse the City of Modesto for said costs estimated at $85,000 annually, and

WHEREAS, the High Risk Intervention Team program is scheduled to begin in May, 2005, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the Position Allocation for the Modesto Police Department be increased by one Police Officer who will be assigned to work on the High Risk Intervention Team.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary allocation increase.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 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 
MICHAIL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2005-169

A RESOLUTION AMENDING THE FISCAL YEAR 2004/05 BUDGET TO REALIZE REVENUE AND EXPEND FUNDS FOR A MODESTO POLICE OFFICER TO SERVE ON THE HIGH RISK INTERVENTION TEAM

WHEREAS, Modesto City School District has proposed a “High Risk Intervention Team” to work with at-risk juveniles who are on probation and show promise of rehabilitation, and

WHEREAS, these juveniles will be tracked and assisted by a Probation Officer, a Modesto Police Officer and a school official, and

WHEREAS, the Modesto Police Officer will handle scheduled in-office visits with the juveniles and their parents, to offer them direction and any needed assistance, and

WHEREAS, Modesto City School District will pay for all costs of the Police Officer, salary, benefits and incentives, estimated at $85,000 annually, and will reimburse the City of Modesto for said costs and

WHEREAS, the High Risk Intervention Team program is scheduled to begin in May, 2005, and

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

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: 0100-190-191-0110 $14,166 Salaries and Benefits
Revenue:
To: 0100-190-1921-3727 $14,166 School-PD Reimbursement

BE IT FURTHER RESOLVED that the Finance Director, or his 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 5th day of April 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
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO SOLICIT PROPOSALS FOR CONSULTANT SERVICES TO ASSIST IN DEVELOPMENT OF A REQUEST FOR PROPOSALS (RFP) FOR A VENDOR TO DESIGN, BUILD, OWN AND OPERATE A METHANE GAS FIRED COGENERATION UNIT AT THE PRIMARY WASTEWATER TREATMENT FACILITY AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONSULTANT AGREEMENT IN AN AMOUNT NOT TO EXCEED $50,000

WHEREAS, methane is a byproduct of the wastewater treatment process, and

WHEREAS, the Primary Wastewater Treatment Facility does not fully use the methane gas generated from the treatment plant’s digesters, and

WHEREAS, installation of a cogeneration unit at the Primary Wastewater Treatment Facility would allow methane gas to be used to provide energy, including heat, for the Treatment Plant, and

WHEREAS, the proposed cogeneration unit would be designed, built, owned and operated by the selected vendor with no financial input by the City, and

WHEREAS, the City would not provide funding for the project, and

WHEREAS, the City would, however, recognize an offset to revenues based on the reduction in natural gas usage and a partnership with Modesto Irrigation District (MID), and

WHEREAS, due to the nature of the project, its complexity and the need for a collaborative relationship with MID, the Public Works Department wishes to seek the services of a consultant with significant experience in developing specifications and contracts for cogeneration projects to assist in the development of the RFP for the selection of vendors for this project, and
WHEREAS, consultation services are essential for staff to develop appropriate specifications and to conduct a selection process that ensures the City is benefiting to the maximum extent possible from this project, while minimizing liability, and

WHEREAS, staff must also ensure that the project is developed in such a way as to gain support for MID’s renewable energy benefit, and

WHEREAS, use of a consultant can provide experienced staff and a quick turnaround for this project, thereby improving efficiency and energy conservation at the Primary Wastewater Treatment Facility, and

WHEREAS, the Economic Development Committee considered this item at its March 7, 2005 meeting and recommended its approval and consideration by the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department, Water Quality Control Division to solicit proposals for consultant services to assist in development of a Request for Proposals (RFP) for a vendor to design, build, own, and operate a methane gas fired cogeneration unit at the Primary Wastewater Treatment Facility and authorize the City Manager, or his designee, to execute the consultant agreement in an amount not to exceed $50,000.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 5th day of April, 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
RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO
SOLICIT A REQUEST FOR PROPOSALS (RFP) FOR THE DEVELOPMENT
AND IMPLEMENTATION OF A STORMWATER MANAGEMENT PROGRAM
FOR THE STORMWATER AND WASTEWATER COLLECTIONS DIVISION
FOR A ONE-YEAR AGREEMENT WITH TWO (2), ONE-YEAR EXTENSION
OPTIONS

WHEREAS, the Environmental Protection Agency requires all municipalities
with populations exceeding 100,000 to apply for a National Pollutant Discharge
Elimination System (NPDES) Stormwater Permit, and

WHEREAS, the NPDES permit establishes the requirements for reducing pollutant
runoff into the City’s storm drains, which eventually enters either rockwells and/or local
waterways, and

WHEREAS, as part of the City’s current NPDES Stormwater Permit, the City was
mandated to develop a Storm Water Management Plan (SWMP) and a Stormwater Management
Program, and

WHEREAS, the City completed and adopted its SWMP in September 2003, and

WHEREAS, the City must conduct a monitoring program to characterize the runoff from
the City and its impact on local waterways, and

WHEREAS, Stormwater Management Program consultant services provided by a firm
with SWMP expertise are essential for the City to continue meeting the SWMP requirements, and

WHEREAS, annual costs for these services are estimated to be:

Fiscal Year 2004/2005   $180,000
Fiscal Year 2005/2006   $185,000
Fiscal Year 2006/2007   $193,000

, and
WHEREAS, the City desires a one-year agreement for consultant services, with two (2) one-year extension options, and

WHEREAS, the Economic Development Committee considered this item at its March 7, 2005 meeting and recommended consideration by the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department to solicit Request for Proposals (RFP) for the development and implementation of a Stormwater Management Program for the Stormwater and Wastewater Collections Division for a one-year agreement with two (2), one (1) year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By:

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-172

RESOLUTION AUTHORIZING AN APPROPRIATION TRANSFER OF $50,000 FROM STORM DRAINAGE RESERVES (6280-800-8000-8003) TO STORM DRAINAGE ADMIN/MONITORING (6280-480-5314-0235) TO FULLY FUND THE STORMWATER MANAGEMENT PROGRAM FOR FISCAL YEAR 2004-2005

WHEREAS, as part of the City’s current NPDES Stormwater Permit, the City was mandated to develop a Storm Water Management Plan (SWMP) and a Stormwater Management Program, and

WHEREAS, Stormwater Management Program consultant services provided by a firm with SWMP expertise are essential for the City to continue meeting the SWMP requirements, and

WHEREAS, annual costs for these services are estimated to be:

Fiscal Year 2004/2005   $180,000
Fiscal Year 2005/2006   $185,000
Fiscal Year 2006/2007   $193,000

, and

WHEREAS, award of the contract for Fiscal Year 2004-2005 will require a transfer of $50,000 from Storm Drain Reserve Funds (6280-800-8000-8003) to Storm Drainage Admin/Monitoring (6280-480-5314-0235) to fully fund the Stormwater Management Program, and

WHEREAS, the Economic Development Committee considered this item at its March 7, 2005 meeting and recommended consideration by the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of $50,000 from Storm Drain Reserve Funds (6280-

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-173

A RESOLUTION ACCEPTING THE BID AND APPROVING A $172,500.00 CONTRACT WITH VANGUARD CONSTRUCTION, FOR THE PROJECT TITLED, “2004 ADA CURB RAMP CONSTRUCTION” AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the bids received for “2004 ADA Curb Ramp Construction” were opened at 11:00 a.m. on March 15, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $172,500.00 received from Vanguard Construction, be accepted as the lowest responsible bid and the contract be awarded to Vanguard Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Vanguard Construction, in the amount of $172,500.00, and hereby awards Vanguard Construction, the contract titled “2004 ADA Curb Ramp Construction.”

BE IT FURTHER RESOLVED that the Acting 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 5th day of April 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

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-174

A RESOLUTION ACCEPTING THE BID AND APPROVING A $205,499.00 CONTRACT WITH RODGERS CONSTRUCTION AND ENGINEERING COMPANY, INC., FOR THE PROJECT TITLED, “SCENIC DRIVE AND BODEM STREET RIGHT TURN LANE - CML-5059 (104),” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the bids received for “Scenic Drive and Bodem Street Right Turn Lane - CML-5059 (104)” were opened at 11:00 a.m. on March 8, 2005, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $205,499.00 received from Rodgers Construction and Engineering, Inc., be accepted as the lowest responsible bid and the contract be awarded to Rodgers Construction and Engineering, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Rodgers Construction and Engineering, Inc., in the amount of $205,499.00, and hereby awards Rodgers Construction and Engineering, Inc., the contract titled “Scenic Drive and Bodem Street Right Turn Lane - CML-5059 (104).”

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 5th day of April 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, Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHRI, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-175

A RESOLUTION ACCEPTING THE WORK BY GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR THE “USTACH NEIGHBORHOOD PARK” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $1,126,248.27 PER THE CONTRACT. TOTAL PROJECT COST IS $1,340,336.93

WHEREAS, a report has been filed by the Public Works Director that the project titled “Ustach Neighborhood Park” has been completed by Goodland Landscape Construction, Inc., in accordance with the contract agreement dated June 24, 2003,

NOW, THEREFORE, BE IT RESOLVED that the “Ustach Neighborhood Park” project be accepted from said contractor, Goodland Landscape Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $1,126,248.27, 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 5th day of April 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
RESOLUTION ACCEPTING THE WORK BY RICHARD TOWNSEND CONSTRUCTION, INC., DBA RTC, FOR THE "MODESTO POLICE DEPARTMENT TRAINING FACILITY CONCRETE FLATWORK" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $86,947.60 PER THE CONTRACT. TOTAL PROJECT COST IS $94,568.73

WHEREAS, a report has been filed by the Public Works Director that the project titled "Modesto Police Department Training Facility Concrete Flatwork" has been completed by Richard Townsend Construction, Inc., dba RTC, in accordance with the contract agreement dated December 14, 2004.

NOW, THEREFORE, BE IT RESOLVED that the "Modesto Police Department Training Facility Concrete Flatwork" project be accepted from said contractor, Richard Townsend Construction, Inc., dba RTC, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $86,947.60 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 5th day of April, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-177

A RESOLUTION APPROVING A FIVE (5) YEAR CONTRACT WITH THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) FOR THE ADMINISTRATION OF CITY EMPLOYEES’ 401(A) AND 457 DEFERRED COMPENSATION PLANS AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the City of Modesto offers a deferred compensation program for its employees, and

WHEREAS, the City of Modesto requires administration of this program, and

WHEREAS, The International City Management Association Retirement Corporation (ICMA-RC) has worked with the City of Modesto to deliver excellent service, and

WHEREAS, the ICMA-RC has eliminated the administrative fee charged to employees, and

WHEREAS, the ICMA-RC working in conjunction with the City’s Deferred Compensation Committee has enabled the City to stay current on legislative changes affecting the plans, and

WHEREAS, the ICMA-RC has introduced new offerings, allowing City of Modesto employees to maximize their contributions, and

WHEREAS, to help offset City’s internal cost of plan administration, ICMA will pay City an administrative allowance in the amount of $20,000 per year in the first and second year of the Agreement and $35,000 per year in the third, fourth, and fifth year of the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of a five (5) year agreement with the ICMA-RC a
copy of which will be on file in the office of the City Clerk.

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

The foregoing resolution was introduced at a regular meeting of the
Council of the City of Modesto held on the 5th day of April 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

APPROVED AS TO FORM

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-178

A RESOLUTION RE-APPROPRIATING FUNDS FROM SEWER FUND OPERATING ACCOUNTS, EXISTING SEWER CAPITAL IMPROVEMENT (CIP) PROJECTS, AND PCE LITIGATION REIMBURSEMENTS TO THE CELESTE/ROSE/SCENIC SEWER IMPROVEMENTS CIP (6210-430-A049) TO COMPLETE IMPROVEMENTS SPECIFIED IN AN OCTOBER 2003 AGREEMENT WITH MEMORIAL HOSPITALS ASSOCIATION

WHEREAS, Memorial Hospitals Association (Memorial) approached the City about a significant hospital expansion in 2003, and

WHEREAS, a capacity study was conducted on the Rose-Celeste Sewer Trunk line that would receive the hospital’s wastewater discharges, and

WHEREAS, the study determined the lines and lift stations were already above capacity and the main trunk line was deteriorating, and

WHEREAS, it was determined that $4.1 million in improvements was needed to relieve capacity issues and provide additional discharges for the hospital expansion, and

WHEREAS, the fair share of the improvements for Memorial’s expansion was determined to be $439,000, and

WHEREAS, in October 2003 an agreement specifying the $439,000 contribution of Memorial, the construction of the improvements by the City, and a completion date of March 2006 was approved by Council, and

WHEREAS, Memorial paid to the City its contribution amount of $439,000 to the overall project, subsequent to the Council action, and

WHEREAS, a funding source for these improvements was not identified in the Council action and it was anticipated the Sewer Reserve Funds would fund a significant portion of the cost, and
WHEREAS, Council adopted the Capital Improvement Program (CIP) in October 2004 which included Celeste/Rose/Scenic Sewer Improvements Project (6210-430-A049) estimated at $5.3 million to expand the Rose-Celeste Trunk Line, and

WHEREAS, due to the agreement with Memorial, staff has identified this project as a priority CIP for 2004-05 and $400,000 is allocated for the design phase of this project, and

WHEREAS, Sewer Fund Reserve funds are not adequate to support this project due to unanticipated expenditures related to PCE litigation, and

WHEREAS, the City has received some significant PCE expenditure reimbursements, and

WHEREAS, staff proposes to defer projects and reallocate funds from operating and CIP accounts, as well as funds from PCE litigation reimbursements to fund the Celeste/Rose/Scenic Sewer Improvements Project as follows:

<table>
<thead>
<tr>
<th>Sewer Fund Operating:</th>
<th>CIP</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>6210-480-5225-0235</td>
<td>$200,000</td>
<td>Lift Station Rehab</td>
</tr>
<tr>
<td>6210-480-5226-0360</td>
<td>$100,000</td>
<td>Annual Renewal/Replacement Primary</td>
</tr>
<tr>
<td>6210-480-5227-0360</td>
<td>$500,000</td>
<td>Annual Renewal/Replacement Secondary</td>
</tr>
<tr>
<td>6210-480-M244-6030</td>
<td>$761,000</td>
<td>Land acquisition for Secondary Site (partially funded)</td>
</tr>
<tr>
<td>6210-430-N143-6040</td>
<td>$400,000</td>
<td>Shackelford Crossing</td>
</tr>
<tr>
<td>6210-440-5202-8121</td>
<td>$2,500,000</td>
<td>PCE litigation settlements</td>
</tr>
</tbody>
</table>

WHEREAS, while deferral of the above-listed projects is not desirable, however, to fulfill the agreement with Memorial, funds must be reallocated to accomplish the agreed upon improvements, and
WHEREAS, re-appropriating this funding along with Memorial's contribution of $439,000 will fully fund the Celeste/Rose/Scenic Improvements project (6210-430-A049) and fulfill the City's agreement with Memorial, and

WHEREAS, at its meeting of February 23, 2005, the Finance Committee approved this request and further recommended approval to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes re-appropriating funds to fully fund the Celeste/Rose/Scenic Sewer Improvements project as follows:

<table>
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<th>Sewer Fund Operating:</th>
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<td>$2,500,000</td>
<td>PCE litigation settlements.</td>
</tr>
</tbody>
</table>

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 5th day of April 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, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: 

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-179

A RESOLUTION DENYING THE APPEAL AND REQUESTING THE APPELLANT TO WORK WITH STAFF ON MITIGATION MEASURES, AND RETURN TO COUNCIL WITH AN UPDATED TRAFFIC STUDY WITH THE $10 MILLION INSURANCE POLICY REMAINING IN PLACE UNTIL THE TRAFFIC STUDY IS RETURNED

WHEREAS, on August 27, 2002, the Modesto City Council adopted Resolution No. 2002-424 approving the Pelandale Access Agreement for the O’Brien Center located at the southeast corner of Pelandale Expressway and Dale Road, and

WHEREAS, this agreement required O’Brien’s Development to hold general liability insurance for this property with a minimum limit of liability per occurrence of ten million dollars ($10,000,000) for bodily injury and one million dollars ($1,000,000) for property damage or ten million dollars ($10,000,000) combined single limit, and

WHEREAS, on March 5, 2005, the City of Modesto received a request from Dennis E. Wilson, representing Mr. Chuck O’Brien of the O’Brien’s Center, to reduce the ten million dollar ($10,000,000) insurance requirement, and

WHEREAS, Dowling and Associates prepared the traffic study as required by the Pelandale Access Agreement, and

WHEREAS, the consultant observed illegal turning movements into and out of the O’Brien’s Development Pelandale access, and

WHEREAS, the results of this study do not support a reduction of the liability insurance requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the O’Brien's Development appeal is denied.
BE IT FURTHER RESOLVED that the appellant is requested to work with staff on mitigation measures and return to Council with an updated traffic study.

BE IT FURTHER RESOLVED that the ten million dollar ($10,000,000) insurance policy remains in place until the traffic study is returned.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April 2005, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-180

A RESOLUTION ISSUING A WRITTEN REPORT DESCRIBING THE MEASURES TAKEN TO ALLEVIATE THE CONDITION WHICH LEAD TO THE ADOPTION OF AN EMERGENCY INTERIM ORDINANCE, ORDINANCE NO. 3383 (WHICH PROHIBITED THE ESTABLISHMENT OF NEW MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF MODESTO)

WHEREAS, on March 8, 2005, the Modesto City Council adopted an Emergency Interim Ordinance (Ordinance No. 3383), and

WHEREAS, Interim Ordinance No. 3383 was adopted pursuant to the authority conferred upon the City by California Government Code Section 65858, and

WHEREAS, subdivision (d) of California Government Code Section 65858 requires the City Council to issue a written report describing the measures taken to alleviate the condition which lead to the adoption of the Interim Ordinance ten (10) days prior to the expiration of the Interim Ordinance, and

WHEREAS, the Modesto City Attorney has prepared such a report for issuance by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby issues the attached written report which describes the measures taken by the City to alleviate the conditions which lead to the adoption of Interim Ordinance No. 3383.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2005, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2005-181

A RESOLUTION AMENDING THE 2004-2005 LEGISLATIVE PLATFORM FOR THE CITY OF MODESTO

WHEREAS, on October 26, 2004, by Resolution No. 2004-544, the City Council adopted the 2004-2005 Legislative Platform, and

WHEREAS, this document provides City staff with the needed direction to determine whether or not the City should support pending federal and state legislation, and

WHEREAS, this document is a living document and should be reviewed and amended from time to time, and

WHEREAS, representatives from the City Manager’s Office, the Community and Economic Development Department, the Personnel Department, the City Attorney’s Office, the Fire Department, the Police Department, the Finance Department, the Parks, Recreation & Neighborhoods Department, and Public Works recently reviewed the document and recommended that six Issue and Action items in the 2004-2005 Legislative Platform be amended as more fully set forth in an agenda report from City Manager, George W. Britton, to the Mayor and Council, dated April 19, 2005, and

WHEREAS, the City Council, after hearing staff’s presentation at the April 26, 2005, City Council meeting, requested that Issue and Action 4.5 be added to the 2004-2005 Legislative Platform as described below.

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<th>Issue: 4.5. Design and construction standards for schools are a responsibility of the State. Many schools have been built and are being built with only one all-weather access road. As a result significant traffic congestion occurs during the times of day when parents drop-off and pick-up their children. In the event of an emergency situation this traffic congestion could impede the timely response of emergency service providers.</th>
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<td>Action: 4.5. Support legislation that encourages school districts to make all possible efforts to have two all-weather access roads installed at every school. This will help ensure adequate emergency response, improve traffic flows, and reduce air pollution from idling vehicles during the peak traffic periods.</td>
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04/26/05/CM/B Whitemyer/Item No 7

2005-181
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the 2004-2005 Legislative Platform as set forth in said agenda report from the City Manager to the Mayor and Council dated April 19, 2005.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby amends the 2004-2005 Legislative Platform to also include Issue and Action 4.5 as described above.

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 Keating, 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: Council members: Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant

NOES: Council members: None

ABSENT: Council members: Mayor Ridenour

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney