MODESTO CITY COUNCIL
RESOLUTION NO. 2004-683

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MODESTO CREATING TAX ZONE #2 IN COMMUNITY FACILITIES
DISTRICT NO. 2004-1 (VILLAGE ONE #2), APPROVING AN INCREASE
IN THE ONE-TIME FACILITIES SPECIAL TAX THEREIN, AND APPROVING
UPDATES OF THE RATE AND METHOD OF APPORTIONMENT OF
SPECIAL TAXES FOR THE DISTRICT

WHEREAS, this Council has, pursuant to its Resolution No. 2004-127, “A Resolution of
the City Council of the City of Modesto of Intention to Establish City of Modesto Community
Facilities District No. 2004-1 (Village One #2) and Authorize the Levy of Special Taxes
Therein,” adopted on March 2, 2004, conducted proceedings for the formation of the City’s
Community Facilities District No. 2004-1 (Village One #2) (the “District”) pursuant to Chapter
3.5 of Division 2 of Title 5 (commencing with Section 53311) of the California Government
Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”); and

WHEREAS, following the approval of the special taxes by the qualified electors in the
District, this Council, by its Ordinance No. 3345-C.S., “An Ordinance of the City Council of the
City of Modesto Authorizing the Levy of Special Taxes within City of Modesto Community
Facilities District No. 2004-1 (Village One #2),” adopted on April 27, 2004, authorized the levy
of the special taxes; the special taxes being set forth in Exhibit A thereto (the “Rate and
Method”); and

WHEREAS, the obligation to pay the special taxes has, pursuant to the Act, become a
lien upon all nonexempt real property within the District as a result of the recordation, in the
office of the Stanislaus County Recorder, of a Notice of Special Tax Lien to which the Rate and
Method is attached as Exhibit A; and
WHEREAS, all parcels in the District upon its formation, as well as those parcels subsequently annexed into the District, being Annexation Nos. 1 through 5, have been assigned to Tax Zone #1, being the only Tax Zone currently in the District; and

WHEREAS, the Rate and Method, in Section C thereof and in the definition of “Tax Zone”, provides that additional Tax Zones may be created when property is annexed to the District; and

WHEREAS, additional annexations to the District are contemplated; and

WHEREAS, staff has provided its report to this Council that the “One-Time Facilities Special Tax”, as defined in the Rate and Method, needs to be increased due to an increase in the cost of the facilities to be financed by the One-Time Facilities Special Tax, such increase to be applicable to parcels annexed into the District subsequent to Annexation No. 5; and

WHEREAS, The One-Time Facilities Special Tax is not a special tax to pay for bond financed facilities; and

WHEREAS, this Council, having considered the staff report, wants to revise the “One-Time Facilities Special Tax” consistent with the report, and, in order to do so, wants to create within the District a Tax Zone #2 in which the increased One-Time Facilities Special Tax would be authorized to be levied; and

WHEREAS, the Rate and Method provides for the updating of Table 1 therein and Attachments 1 and 2 thereto to reflect annexations to the District, and staff has recommended that the Rate and Method be updated to reflect the parcels annexed to the District pursuant to Annexation Nos. 1 through 5; and
WHEREAS, staff has also submitted to this Council a revised Rate and Method, a copy of which is attached as Exhibit A hereto, in which the actions herein ordered have been incorporated; and

WHEREAS, the actions herein ordered will not increase the One-Time Facilities Special Tax on any parcels within the existing District, including those parcels annexed as a part of Annexation Nos. 1 through 5,

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. It is in the public interest, and in the best interests of the landowners and other interested parties in the District, to preserve the special tax revenue stream in a manner which will enable this City to pay for the cost of the facilities and services authorized to be financed by the levy of the special taxes in the District. The facilities are those which this Council has determined are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District; the services are those which this Council has determined are in addition to those services provided in the District before it was created and that are necessary to meet the demands placed upon the City and other local agencies as a result of such development.

SECTION 3. There is created a Tax Zone #2 within the District, in which the special taxes heretofore authorized to be levied within the District shall be levied, except that the One-Time Facilities Special Tax is authorized to be levied at the increased rate as set forth in Exhibit A;

SECTION 4. The revised Rate and Method, set forth in Exhibit A, in which Tax Zone #2 is created and for which the "One-Time Facilities Special Tax" is increased, is approved.

SECTION 5. The updates to Table 1 and Attachments 1 and 2 of the Rate and Method, to reflect the parcels annexed to the District pursuant to Annexation Nos. 1 through 5, have been made in accordance with the Rate and Method, and are approved.

SECTION 6. Any subsequent proceedings for the annexation of a parcel into the District shall incorporate the revisions to the Rate and Method hereby ordered and approved, and the Amendment to the Notice of Special Tax Lien, recorded pursuant to Section 3117.5 of the California Streets and Highways Code in connection with the annexation, shall identify the Tax Zone to which the Parcel has been assigned.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December 2004, 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

(SEAL)

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)

UPDATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES
ADDING TAX ZONE #2

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2004-1 (Village One #2) [herein “CFD No. 2004-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2004-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2004-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map or other Development Plan.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2004-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.
"Annual Facilities Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

"Annual Facilities Special Tax Requirement" means the amount necessary in any Fiscal Year (i) to pay principal and interest, including scheduled sinking fund payments, on Bonds, (ii) pay administrative expenses of CFD No. 2004-1 that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, (iii) to create or replenish reserve funds, (iv) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2004-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) to construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (iii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2004-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay administrative expenses of CFD No. 2004-1 that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Facilities" means those facilities that are authorized to be funded by CFD No. 2004-1.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2004-1.

"Bonds" means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2004-1 related to Authorized Facilities.

"Capitalized Interest" means funds in any capitalized interest account available to pay debt service on Bonds.

City of Modesto CFD No. 2004-1 2 December 2, 2004
“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2004-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2004-1.

“Commercial Property” means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of a commercial building based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:

• for Low Density Residential Property and Village Residential Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2002,

• for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and

• for Commercial Property and Industrial Property, all Parcels for which a building permit for construction, reconstruction or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Commercial Property or Industrial Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:

• for Low Density Residential Property and Village Residential Property, all Parcels for which a building permit for construction, or reconstruction of a unit was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2002,

• for Multi-Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
for Commercial Property and Industrial Property, all Parcels for which a building permit for construction, reconstruction or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Commercial Property or Industrial Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

"Expected Land Uses" means the Net Taxable Acreage of each Land Use Class expected on an Original Parcel in CFD No. 2004-1 based on reference to the Expected Land Use Map. The Expected Land Uses for each Original Parcel in the CFD at the time of CFD Formation, and the corresponding Maximum Special Tax for each Parcel, are reflected in Attachment 2, which will be updated with each annexation of property into CFD No. 2004-1.

"Expected Land Use Map" means the map entitled "Village One Zoning of Unvested Properties" and dated February 21, 2003, which is on file with the CFD Administrator at the City and the City Clerk and which identifies the Expected Land Uses on all Parcels within the Village One Specific Plan that either (i) are in CFD No. 2004-1 at CFD Formation, or (ii) may be annexed into the CFD in future Fiscal Years. The Expected Land Use Map may be updated in future years to add property within the Village One Specific Plan that was vested to develop when the map was prepared and, therefore, was not included in the map but subsequently has its vesting expire or for any other reason becomes subject to a condition of development that requires formation of, or annexation into, a CFD.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor's Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Improvement Area" means a geographic area that, upon annexation into CFD No. 2004-1, is identified as an improvement area as defined in the Act instead of a Tax Zone, as defined below. Special Taxes collected within an Improvement Area will be the sole security for Bonds issued for that Improvement Area.

"Industrial Property" means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of an industrial building based on reference to the Village One Specific Plan and/or the Parcel's zoning designation.

"Land Use Class" means one of the five mutually-exclusive land use classes identified in Table 1 in Section C below and defined in this Section A. The City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation.
"Low Density Residential Property" means all Parcels in CFD No. 2004-1 for which a building permit has been or may be issued for construction of a residential unit on a Parcel with a maximum density of two or less dwelling units per gross acre based on reference to the Village One Specific Plan and/or the Parcel's zoning designation.

"Maximum Annual Facilities Special Tax" means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum One-Time Facilities Special Tax" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means all Parcels in CFD No. 2004-1 for which building permits have been or may be issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units. If a building permit has not yet been issued on the Parcel, the Administrator shall reference the Village One Specific Plan and/or the Parcel's zoning designation to determine whether the Parcel is Multi-Family Property.

"Net Taxable Acreage" or "Net Taxable Acre" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor's Parcel in CFD No. 2004-1 at the time of CFD Formation or added to the CFD upon annexation, as identified in Attachment 2 (which shall be updated after each annexation). A Successor Parcel that is being further subdivided shall also be considered an
Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Per-Acre Special Taxes" means the per-acre Special Taxes identified in Table 1 in Section C below.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2004-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Single Family Detached Lot" means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Special Tax Category" means, individually, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Subdivision Map" means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

"Successor Parcel" means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

"Taxable Property" means all of the Assessor’s Parcels within the boundaries of CFD No. 2004-1 which are not exempt from the Special Tax pursuant to law or Section G below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2004-1 that, (i) based on the Village One Specific Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

"Tax Zone" means a mutually exclusive geographic area within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Taxes. Attachment 1 identifies the boundaries of Tax Zone #1 and Tax Zone #2 as of the date of adoption of this updated
Rate and Method of Apportionment of Special Tax; additional Tax Zones may be created when property is annexed into the CFD. Alternatively, additional Original Parcels may be added to a Tax Zone with assigned Maximum Special Taxes based on the Expected Land Uses on each Original Parcel.

"Tax Zone #1" means the geographic area that is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1. Tax Zone #1 may be expanded to include additional Original Parcels that annex to CFD No. 2004-1; Attachments 1 and 2 will be updated each time such annexation takes place.

"Tax Zone #2" means the geographic area that is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #2. Tax Zone #2 may be expanded to include additional Original Parcels that annex to CFD No. 2004-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2004-1 that are not Developed Property.

"Village One Specific Plan" means the specific plan for development within the Village One project in the City of Modesto adopted by the City Council on April 1, 2003, as amended from time to time.

"Village Residential Property" means, in any Fiscal Year, all Parcels in CFD No. 2004-1 for which a building permit has been or may be issued for construction of a residential unit on a Parcel with a maximum density greater than two dwelling units per gross acre based on reference to the Village One Specific Plan and/or the Parcel’s zoning designation.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2004-1. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) which Parcels are Commercial Property, Industrial Property, Multi-Family Property, Low Density Residential Property, and Village Residential Property (the City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation), (iv) the Net Taxable Acreage of each Parcel, and (v) the Annual Facilities Special Tax Requirement and the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in CFD No. 2004-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels meets the definition of
Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the parcel map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2004-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax. A separate method of calculating the Maximum Special Taxes may be identified for Tax Zones or Improvement Areas added to CFD No. 2004-1 as a result of future annexations. The Per-Acre Special Taxes set forth in Table 1 below shall be used for purposes of Sections C.1 and C.2 below:

<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Per-Acre Special Tax: One-Time Facilities Special Tax</th>
<th>Per-Acre Special Tax: One-Time Facilities Special Tax</th>
<th>Per-Acre Special Tax: Annual Facilities Special Tax</th>
<th>Per-Acre Special Tax: Annual Maintenance Special Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Density Residential Property</td>
<td>$13,342 per Net Taxable Acre</td>
<td>$19,576 per Net Taxable Acre</td>
<td>$3,517 per Net Taxable Acre</td>
<td>$525 per Net Taxable Acre</td>
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<tr>
<td>Village Residential Property</td>
<td>$30,281 per Net Taxable Acre</td>
<td>$44,429 per Net Taxable Acre</td>
<td>$6,405 per Net Taxable Acre</td>
<td>$1,233 per Net Taxable Acre</td>
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<tr>
<td>Multi-Family Property</td>
<td>$101,437 per Net Taxable Acre</td>
<td>$148,832 per Net Taxable Acre</td>
<td>$7,222 per Net Taxable Acre</td>
<td>$4,020 per Net Taxable Acre</td>
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<tr>
<td>Commercial Property</td>
<td>$52,102 per Net Taxable Acre</td>
<td>$76,446 per Net Taxable Acre</td>
<td>$3,570 per Net Taxable Acre</td>
<td>$920 per Net Taxable Acre</td>
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<tr>
<td>Industrial Property</td>
<td>$13,103 per Net Taxable Acre</td>
<td>$19,225 per Net Taxable Acre</td>
<td>$2,550 per Net Taxable Acre</td>
<td>$920 per Net Taxable Acre</td>
</tr>
</tbody>
</table>

* All Per-Acre Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

1. **Original Parcels**

The Maximum Special Taxes for each Land Use Class in the Original Parcels in CFD No. 2004-1 as of the date of adoption of this updated Rate and Method of Apportionment of Special Tax are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to additional annexations. Until an Original Parcel is subdivided, the Maximum Special Taxes shown in

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City of Modesto CFD No. 2004-1 8  December 2, 2004
Attachment 2 (escalated as set forth herein) shall be the Maximum Special Taxes for the Parcel unless the zoning on the Original Parcel changes to a Land Use Class that has higher Per-Acre Special Taxes, as shown in Table 1 above. Upon approval of such change in zoning by the City Council, the Administrator shall multiply the applicable Per-Acre Special Taxes by the Net Taxable Acreage of each Land Use Class that is expected on the Parcel based on the rezone. The Administrator shall then update Attachment 2 to reflect the higher Maximum Special Taxes for theParcel. If a rezone results in a Land Use Class that has a lower Per-Acre Special Tax than the previous Expected Land Uses, there shall be no corresponding reduction in the Maximum Special Taxes for the Parcel. The potential reduction in Maximum Special Tax revenues must be considered separately for each Special Tax Category. If the rezone would cause a reduction in the Maximum Special Tax revenues in any Special Tax Category, the Maximum Special Tax identified for that Special Tax Category shall remain the same as originally assigned to the Original Parcel.

2. Successor Parcels

a. All Successor Parcels are Single Family Detached Lots

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes for the Original Parcel to each of the Successor Parcels created by the subdivision:

Step 1: Determine the greater of (i) the Maximum Special Taxes assigned to each Expected Land Use for the Original Parcel, or (ii) the Net Taxable Acreage of Low Density Residential Property and/or Village Residential Property within the Subdivision Map multiplied by the Per-Acre Special Taxes for such Land Use Classes from Table 1 above. If the Subdivision Map includes both Low Density Residential Property and Village Residential Property, separately calculate the amount that applies to each Land Use Class.

Step 2: Separately for any Low Density Residential Property and Village Residential Property created by the Subdivision Map, divide the Maximum Special Taxes from Step 1 by the number of Successor Parcels to determine the Maximum Special Taxes for each Single Family Detached Lot.

b. No Successor Parcels are Single Family Detached Lots

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:
Step 1: Identify the Expected Land Uses for the Original Parcel.

Step 2: Determine the Net Taxable Acreage within each Land Use Class created by the Subdivision Map.

Step 3: If the Net Taxable Acreage of each Land Use Class from Step 2 is the same as the Expected Land Uses, the Maximum Special Taxes assigned to each of the Expected Land Uses on the Original Parcel shall be allocated to the Successor Parcels based on the Acreage of each Land Use Class that occurs on each Successor Parcel.

Step 4: If the Net Taxable Acreage within each Land Use Class from Step 2 is different than the Expected Land Uses for the Original Parcel, the Administrator shall apply the following steps separately for each Special Tax Category:

Step 4a. Multiply the applicable Per-Acre Special Tax by the Net Taxable Acreage of each Land Use Class created by the Subdivision Map.

Step 4b. If the amount calculated in Step 4a is greater than the Maximum Special Tax assigned to the Original Parcel, multiply the Net Taxable Acreage of each Land Use Class on each Successor Parcel by the applicable Per-Acre Special Tax from Table I above to determine the Maximum Special Tax for each Successor Parcel.

Step 4c. If the amount calculated in Step 4a is less than the Maximum Special Tax assigned to the Original Parcel: (i) identify the Maximum Special Tax that was assigned to each of the Expected Land Uses on the Parcel, (ii) divide the Maximum Special Tax for each Land Use Class by the Net Taxable Acreage of each Land Use Class actually created by the Subdivision Map, and (iii) multiply the per-acre Maximum Special Tax calculated in (ii) by the Net Taxable Acreage of each Land Use Class on each Successor Parcel to determine the Maximum Special Tax for each Parcel.

If the Land Use Classes on a Successor Parcel or Parcels are different than the Expected Land Uses for that Parcel(s) and such difference would result in a reduction in the Maximum Special Tax assigned to the Original Parcel for any Special Tax Category, the Maximum Special Tax assigned to the Original Parcel shall either be distributed equally on a per-acre basis to the Successor Parcels or, if multiple Land Use
Classes are created by the Subdivision Map, the Maximum Special Tax from the Original Parcel shall be distributed to each Land Use Class so that the per-acre tax for each Land Use Class has the same proportional relationship as the Per-Acre Special Taxes in Table 1 above.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

c. Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall (i) break out the Net Taxable Acreage of Low Density Residential Property and/or Village Residential Property separately from the Net Taxable Acreage of other Land Use Classes, (ii) for the Low Density Residential Property and/or Village Residential Property created by the Subdivision Map, apply the steps in Section C.2a to determine the Maximum Special Taxes for each Single Family Detached Lot, and (iii) apply the steps in Section C.2b above to determine the Maximum Special Taxes for Land Use Classes other than Low Density Residential Property and Village Residential Property.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less, but may be more, than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.
2. **Annual Facilities Special Tax**

   Beginning in Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. **Annual Maintenance Special Tax**

   Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel and the Per-Acre Special Tax shown in Table 1 above shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the *Engineering News Record* or other comparable source if the *Engineering News Record* is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. **METHOD OF LEVY OF THE SPECIAL TAX**

1. **One-Time Facilities Special Tax**

   The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2004-1 and shall be collected as set forth in Section F below.

2. **Annual Facilities Special Tax**

   Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for the Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2004-1 as follows:

   **Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

   **Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s
Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2004-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2004-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.
The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring Authorized Facilities from Annual Facilities Special Tax proceeds have been paid, and all Administrative Expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-61. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

"Outstanding Bonds" means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor's Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

"Previously Issued Bonds" means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

"Public Facilities Requirements" means either $14,100,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such other number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above shall be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2004-1; at no time shall the added Public Facilities Requirement for the annexation area exceed the amount of public
improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax generated within that annexation area.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

\[
\text{Prepayment Amount} = \text{Bond Redemption Amount} + \text{Remaining Facilities Amount} + \text{Redemption Premium} + \text{Defeasance Requirement} + \text{Administrative Fees and Expenses} - \text{Reserve Fund Credit}
\]

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

**Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.

**Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.

**Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

**Step 4.** Compute the current Remaining Facilities Costs (if any).
Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "Remaining Facilities Amount").

Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

Step 8: Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.

Step 9: Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "Defeasance Requirement").

Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit").

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "Prepayment Amount").

If an owner that has prepaid the Annual Facilities Special Tax obligation assigned to a Parcel subsequently rezones the Parcel to a Land Use Class that has a higher Per-Acre Annual Facilities Special Tax, the City may in its sole discretion and as a condition of approval of the rezoning, collect the additional Annual Facilities Special Tax prepayment that would have applied had the Parcel been rezoned at the time of the original prepayment for the Parcel.
I. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.
ATTACHMENT 1
City of Modesto
Community Facilities District No. 2004-1
(Village One #2)
IDENTIFICATION OF TAX ZONES

**Tax Zone #1**
- CFD Formation
  - 077-033-007
  - 077-033-009
  - 085-034-080
- Annexation #1
  - 085-002-034
  - 085-002-035
- Annexation #2
  - 077-008-031
  - 077-008-034
  - 077-008-035
  - 077-009-014
  - 077-009-056
  - 077-009-057
- Annexation #3
  - 085-013-067
  - 085-013-069
- Annexation #4
  - 077-033-002
  - 085-007-018
- Annexation #5
  - 077-009-055

Updated by VMD 11/4/04
## Maximum Special Taxes Assigned to Expected Land Uses
Within Each Original Parcel in Each Tax Zone

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1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.

3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-684

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED PLANNED DEVELOPMENT ZONE P-PD(570), PROPERTY LOCATED SOUTH OF GLENN AVENUE AND EAST OF CROWS LANDING ROAD. (EAGLE VALLEY INVESTMENTS, INC.)

WHEREAS, Larry Buehner Trust is the owner of approximately 20 acres of real property, located south of Glenn Avenue and east of Crows Landing Road; and

WHEREAS, a verified application for an amendment to Section 9-4-9 of the Zoning Map was filed by Eagle Valley Investments, Inc., on August 6, 2004, to prezone to Prezoned Planned Development Zone, P-PD(570), to allow for the development of industrial uses on property located south of Glenn Avenue, east of Crows Landing Road, as described in Exhibit “A” attached hereto (“Property”); and

WHEREAS, after a public hearing held on November 15, 2004, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Planning Commission of the City of Modesto recommends by its Resolution Nos. 2004-65A and 2004-65B that the City Council find and determines, that prezoning of the Property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed project will provide needed increase in the amount of industrial land available for development;

2. New industrial development on the site will provide new employment opportunities; and

3. New industrial development on the site will increase the City’s tax base; and

4. The proposed prezoning will result in orderly planning and use of land resources because future industrial development on the site
will be consistent with the existing industrial area and provides the opportunity to take advantage of the existing Union Pacific Railroad line.

5. The proposed prezone is consistent with the Modesto Urban Area General Plan, because:

   a. Industrial development on the site will be consistent with the Industrial designation in the Modesto Urban Area General Plan; and

   b. The location of the Property immediately adjacent to the existing City limits and within the Sphere of Influence is consistent with Urban Growth Policy II.C.1.b., which states “Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services.”

WHEREAS, the Planning Commission further recommends the City Council amend Section 9-4-9 of the Zoning Map to prezone the Property to Planned Development, P-PD(570) in accordance with the following conditions:

1. Prior to the issuance of a building permit, development on the site will be subject to site plan and elevation review and approval by the Community and Economic Development Director or designee, in accordance with the site design standards in the Planned Development attached as Exhibit “C.” All development shall conform to the approved site plans and elevations.

2. Prior to the issuance of a building permit, applicant shall pay for a backup pump and generator for City of Modesto Tank No. 8 and the installation of the backup pump and generator to improve system reliability. Prior to issuance of a building permit, improvement plans and specifications for the backup pump and generator shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee.

3. Prior to issuance of a building permit, the applicant(s) shall be required to pay a mitigation impact fee for applicant’s proportional share of all costs associated with acquisition and/or condemnation of property and installation of street improvements and a traffic control device at the southeast
corner of the intersection of Crows Landing Road and Glenn Avenue, in an amount to be determined by the City Engineer.

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 14, 2004, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

NOW, THEREFORE, after said public hearing the Council found and determined that the application of Eagle Valley Investments, Inc., for a Planned Development Zone, P-PD(570) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution Nos. 2004-65A and 2004-65B and quoted above.

WHEREAS, the Council has introduced Ordinance No. 3376-C.S. on the 14th day of December, 2004, prezoning the above-described property to Prezoned Planned Development Zone, P-PD(570),

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

SECTION 1. DEVELOPMENT PLAN. The development plan for the Prezoned Planned Development Zone, P-PD(570) is hereby approved subject to the following conditions:

1. Prior to the issuance of a building permit, development on the site will be subject to site plan and elevation review and approval by the Community and Economic Development Director or designee, in accordance with the site design standards in the Planned Development attached as Exhibit "C." All development shall conform to the approved site plans and elevations.
2. Prior to the issuance of a building permit, a backup pump and generator will be provided for City of Modesto Tank #8 to improve system reliability to the satisfaction of the City Engineer.

3. Prior to issuance of a building permit, the applicant(s) will be asked to pay a mitigation impact fee for their proportional share of the improvement of the intersection of Crows Landing Road and Glenn Avenue.

4. The Vesting Tentative Subdivision Map application cannot proceed to Planning Commission until the annexation process is complete.

5. Prior to approval of the Vesting Tentative Subdivision Map or the issuance of any building permits, a storm drainage basin must be constructed that meets City standards and as approved by the Director Public Works.

6. The property is in Modesto Municipal Sewer District #1. Sewer service shall be taken from East Glenn Avenue.

7. Storm water quality and runoff from the site must be mitigated. The new development guidelines must be followed.

8. Improvement plans shall be prepared by a California-licensed civil engineer and in accordance with City of Modesto standards.

The following conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report:

9. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites:

   a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

   b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

   c. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively
controlled of fugitive dust emissions utilizing application of water or by presoaking.

d. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

e. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

f. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(Use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

g. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

h. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

i. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

10. Plans and specifications for new stormwater facilities within the City of Modesto are reviewed and approved by the engineering and Transportation Department. Development of stormwater drainage facilities must be in compliance with the requirements for the installation of Best Management Practices (BMPs) as defined in the City’s Comprehensive Stormwater Management Program (CSMP), and as outlined in the City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities, adopted December 12, 2000.

11. Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed “rockwells.” New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of appositive storm
drainage systems unless the proposed service area is so isolated from surface waters that it is infeasible to provide positive drainage. The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Master EIR. This policy applies to both positive storm drainage systems and to new rockwells (which are generally discouraged) in the Baseline Developed Area. (General Plan Policy V-E.2[a])

12. The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by the Urban Area General Plan. (General Plan Policy V-E.2[b])

13. The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

14. Storm water drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General Plan Policy V-E.2[d])

15. The California Environmental Protection Agency is authorized to endow qualifying local agencies with oversight and permitting responsibility for certain state programs. The Unified Program was created by state legislation in 1993 to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

a. Hazardous Materials Release Response Plans and Inventories (Business Plans)
b. California Accidental Release Prevention (CalARP) Program
c. UST Program
d. Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans
e. Hazardous Waste Generator and Onsite Hazardous Waste Treatments (tiered permitting) Programs
16. Any construction which occurs as a result of the Urban Area General Plan must conform with the current UBC regulations, which address seismic safety of new structures and slope requirements. As appropriate, the City will require a geotechnical analysis prior to tentative map review in order to ascertain site-specific subsurface information necessary to estimate foundation conditions. These geotechnical studies should reference and make use of the most recent regional geologic maps available from the California Department of Conservation Division of Mines and Geology. (General Plan Policy VI.E.1[a])

SECTION 2. DEVELOPMENT SCHEDULE. The requirement for a development schedule as described in Section 10-2.1708 of the Modesto Municipal Code, is hereby waived.

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until Ordinance No. 3376-C.S. rezoning the above-described property to Prezoned Planned Development P-PD(570) becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2004, 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

(Seal)

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: Community & Economic Development Department Planning Division
Exhibit "A"

LEGAL DESCRIPTION
EXHIBIT "A"

Buehner Reorganization to the City of Modesto

A portion of the southwest quarter of Section 9, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, situate in the County of Stanislaus, State of California, more particularly described as follows:

Commencing at the northeast corner of said southwest quarter of Section 9;

1. thence North 89°56'28" West along the north line of the said southwest quarter of Section 9, a distance of 25.00 to the west line of the Union Pacific Railroad Right-of-Way, the existing city limit line as described in the "Modesto Industrial Park Addition to the City of Modesto" and the TRUE POINT OF BEGINNING;
2. thence South 00°19'10" East along said west line of the Union Pacific Railroad and the existing city limit line, a distance of 672.54 feet;
3. thence North 89°52'25" West along the existing city limit line of the "Whitmore No. 1 Addition to the City of Modesto" and its westerly extension, a distance of 1297.95 feet;
4. North 00°11'33" West along the city limit of "Crows Landing Road Annexation to the City of Modesto", a distance of 671.00 feet;
5. thence South 89°56'28" East along north line of the southwest quarter of Section 9 and the existing city limit line of the "Modesto Industrial Park Addition to the City of Modesto", a distance of 1296.45 feet to the point of beginning.

Contains 20.00 acres, more or less.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Sean Harp, L.S. 7823
License Expires: 12/31/05

Date 12-21-04
Exhibit "B"

ANNEXATION PROPOSAL MAP
BUEHNER REORGANIZATION TO THE CITY OF MODESTO
Exhibit "C"

PLANNED DEVELOPMENT SITE DESIGN STANDARDS
Planned Development Design Standards
Buehner Reorganization/Glenn Avenue

Authority and Purpose

The Planned Development (PD) zone is described in Article 17 of the Modesto Municipal Code.

Development in this PD zone shall be subject to standards set forth in Articles 15 (M-2, Heavy Industrial), 17 (PD, Planned Development), 20 (Off-Street Parking Requirements), and 21 (Sign Regulations) of the City of Modesto Zoning Ordinance, unless specifically addressed herein. All off-site improvements are subject to applicable City standards and policies in effect at the time of submittal of improvement plans.

The purpose of this Planned Development is to achieve a higher quality development that will improve the look of industrial development in the City of Modesto and attract higher-quality businesses to industrial areas of the City.

Design Standards

No additional processing will be required. Approval of site plans and building elevations will be at the discretion of the Director of the Community and Economic Development Department, based on the design standards presented below, and will occur during the building plan review process. The development package submitted at the time a building permit is applied for must include a complete set of building elevations and a site plan.

For metal or wood frame buildings:

• Non-metallic base trim three feet in height shall be used along all portions of the main building visible from a public street. Base trim must be in a contrasting color to the body of the building. Trim may include brick, stone, tile, stucco, or other similar material.
• Roof trim must be at least two feet in height and must be of a color coordinating with the base trim. Roof trim should be designed to alter the bulk of the roof line. Neither a “belly band” nor paint stripes shall be considered roof trim.

For concrete buildings:

• Concrete masonry unit (CMU) walls shall be either integrally colored or textured and integrally colored. All other concrete masonry units shall be finished with a plaster base coat and a plaster finish coat. No painted block walls shall be permitted.
• Personal doors shall be accented with metal awnings to draw attention to entrances and provide some shelter from the weather. This shall not apply to personal doors used exclusively for emergency egress.
• Windows facing the street shall be accented with raised trim and/or awnings.
Other Development Standards

- Buildings shall be set back no less than 20 feet from the front property line.
- At a minimum, half of the front setback area (10 feet) shall be landscaped.
- Whenever feasible, the portion of the building facing a public street shall “read” as the building front by locating personal entry doors and office windows on this side of the building.
- Outdoor storage areas shall be fenced and screened such that material stored outdoors is not visible from the street frontage.
- Unless stored inside a building, trash receptacles shall be located in an enclosure that is gated and locked at all times to prevent unauthorized dumping. Enclosures shall be constructed such that trash receptacles are not visible from outside the enclosure.

Loading and Service Areas

- Truck loading and service areas shall be screened from view from a public street by plantings or berms.

Mechanical Equipment Screening

Roof-mounted equipment, including, but not limited to, air conditioners, fans, and vents shall be set back from the roof edge, placed behind a parapet wall, or in a wall enclosure, so it is not visible from adjacent public streets. Screening equipment shall be integrated into the building and roof design by the use of compatible materials, colors, and forms. Wood lattice and fence-like coverings shall not be used as screening materials.

Ground-mounted equipment should be screened with landscaping. Large structures and/or equipment such as water tanks, silos, and large bins, should be screened by the main building from view from public streets.

Storm Water Drainage Basin

- The storm water drainage basin must be enclosed with a concrete masonry wall which is covered with vines and other climbing plants to prevent graffiti or enclosed with a wrought iron fence accented with masonry pilasters (see Walls and Fences, below).
- The basin must be buffered from the street and sidewalk with a landscaped 20-foot setback from the front property line.

Walls and Fences

Where used, walls shall complement the building design. Walls fronting a public street shall be concrete masonry unit, concrete, brick, or wrought iron with masonry pilasters. Along interior property lines, where not visible from a public street, chain link or wrought iron with masonry pilasters is acceptable.
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-685

A RESOLUTION OF APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX 20 ACRES OF PROPERTY LOCATED SOUTH OF GLENN AVENUE AND EAST OF CROWS LANDING ROAD TO THE CITY OF MODESTO AND SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE INDUSTRIAL FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, Larry Buehner Trust is the owner of approximately 20 acres of real property, located south of Glenn Avenue and east of Crows Landing Road (“Property”); and

WHEREAS, the City has received a written request from the applicant’s representative, Eagle Valley Investments, Inc., to initiate annexation of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq; and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition; and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits “A” and “B”, attached hereto and by this reference incorporated herein; and

WHEREAS, the subject territory proposed to be annexed is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 97-11, on December 19, 1994; and
WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation; and

WHEREAS, the proposed annexation area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996; and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq; and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

(a) The annexation of said territory, as set forth on Exhibits “A” and “B” attached hereto, to the City of Modesto.
(b) The annexation of said territory, as set forth on Exhibits “A” and “B” attached hereto, to the Modesto Sewer District No. 1.
(c) The detachment of said territory from the Industrial Fire Protection District.

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

(a) Staff has received a written request signed by the sole property owner, Larry Buehner Trust, to annex its property to the City of Modesto.
(b) The proposed annexation is within the existing Sphere of Influence and is consistent with the Urban Area General Plan and can be most efficiently served by City services.
(c) The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit “C”, attached hereto and by this reference incorporated herein; and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2004-63) was prepared by the City of Modesto that analyzed whether the proposed subsequent
project may cause any significant effect on the environment that was not examined in the MEIR; and

WHEREAS, on December 14, 2004, at 5:30 p.m., in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the proposed Resolution of Application for annexation of the Property; and

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

1. That the proposed annexation and this Resolution of Application are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Urban Growth Policy II.C.1.b., which states, "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services," and because the development resulting from the proposed annexation is consistent with the General Plan.

2. The type of project under consideration is described in Chapter II of the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Development Area.

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

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

5. That no new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2004-63, provides the substantial evidence to support findings 2-5 above.

7. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B," attached hereto and by this reference incorporated herein.
8. The Property is located within Stanislaus County, is within the City's existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

9. The proposed annexation will result in planned, orderly, and efficient development of the area, and the most efficient provision of services.

10. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

11. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

12. The proposed annexation is within the scope of the Urban Area General Plan MEIR (SCH No. 1999082041) and has been adequately analyzed in the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application to annex the Property to the City of Modesto and Modesto Sewer District No. 1 and to detach the Property from the Industrial Fire Protection District.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that:

1. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council consent to waiver of conducting authority proceedings.

2. Pursuant to Government Code Section 56653, the City Council shall submit the plan for providing services as set forth in Exhibit “C,” attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by
Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES:  Councilmembers: None

ABSENT:  Councilmembers: None

ATTEST:  

JEAN ZAHRI
City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

MICHAEL D. MILICH, City Attorney
Exhibit "A"

WRITTEN DESCRIPTION
EXHIBIT "A"
Buehner Reorganization to the City of Modesto

A portion of the southwest quarter of Section 9, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, situate in the County of Stanislaus, State of California, more particularly described as follows:

Commencing at the northeast corner of said southwest quarter of Section 9;

1. thence North 89°56'28" West along the north line of the said southwest quarter of Section 9, a distance of 25.00 to the west line of the Union Pacific Railroad Right-of-Way, the existing city limit line as described in the “Modesto Industrial Park Addition to the City of Modesto” and the TRUE POINT OF BEGINNING;
2. thence South 00°19'10" East along said west line of the Union Pacific Railroad and the existing city limit line, a distance of 672.54 feet;
3. thence North 89°52'25" West along the existing city limit line of the “Whitmore No. 1 Addition to the City of Modesto” and its westerly extension, a distance of 1297.95 feet;
4. North 00°11'33" West along the city limit of “Crows Landing Road Annexation to the City of Modesto”, a distance of 671.00 feet;
5. thence South 89°56'28" East along north line of the southwest quarter of Section 9 and the existing city limit line of the “Modesto Industrial Park Addition to the City of Modesto”, a distance of 1296.45 feet to the point of beginning.

Contains 20.00 acres, more or less.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Sean Harp, L.S. 7823
License Expires: 12/31/05

Date
12-21-04
Exhibit "B"

ANNEXATION PROPOSAL MAP
Exhibit "C"

PLAN FOR SERVICE
TECHNICAL MEMORANDUM

DATE: January 15, 2004  Project No.: 418-02-01

TO: Will Wong, City of Modesto

CC: Jack Bond, City of Modesto
     Craig Scott, City of Modesto

FROM: Gerry Nakano, Project Manager
       Charles Duncan, Project Engineer
       Carman Ng, Staff Engineer

SUBJECT: 414 East Glenn Avenue Fire Flow Comparison and Analysis

This Technical Memorandum summarizes the findings and conclusions of West Yost and Associates' (WYA) technical evaluation of the ability and reliability of the City of Modesto's (City) existing water distribution system to meet required minimum pressures and flows during an assumed high demand period plus fire flow condition, in the area of 414 East Glenn Avenue, in the South Modesto service area.

BACKGROUND

A 20-acre industrial parcel located in the vicinity of 414 East Glenn Avenue (Project) is planning to be annexed into the City. The subject property is planning to be sub-divided into 20 individual parcels, each approximately 1 acre in size. On August 20, 2003 at 10:30 AM, the City's Fire Department performed a hydrant flow test at 414 East Glenn Avenue, and observed a flow of 1,126 gallons per minute (gpm) and a residual pressure of 45 pounds per square inch (psi) at the observed hydrant.

The City requested that WYA attempt to replicate the field-observed pressure and hydrant flow measurements using the September 2003 calibrated hydraulic water model of the City's water system. The City also requested that a hydraulic analysis be performed to evaluate whether the field-observed pressure and flow measurements could be sustained if a nearby City well or pump station were assumed to be non-operational. Figure 1 provides a schematic location of these facilities. An analysis of Project water demands, or water supply availability was not part of the City requested analysis.
MODELING CRITERIA

The hydraulic modeling criteria used by WYA in the analysis of the City’s existing water system are listed below:

- A demand of 131.5 million gallons per day as measured by the City’s SCADA system on August 20, 2003 at 10:00 AM in Modesto (total within North and South Modesto), was replicated in the hydraulic simulation model. Individual SCADA flow data was also available for each of the City’s groundwater supply wells.
- The September 2003 calibrated hydraulic model of the City’s existing water system was used to evaluate the hydraulic conditions.

ANALYSIS AND FINDINGS

The South Modesto portion of the City’s September 2003 calibrated hydraulic model was modified to reflect the supply conditions according to SCADA information provided for August 20, 2003 at 10:00 AM. WYA then ran the hydraulic simulation model to determine resultant system pressures during a 1,126 gpm hydrant fire flow at the Project. Then to evaluate system reliability/redundancy, this analysis was re-run, assuming that the booster pump supplying water from Tank 8 into the distribution system was out of service.

Hydrant Flow Test with Tank 8 Booster Pump Station Online

The hydraulic model simulation of a 1,126 gpm fire flow at the Project location produced a residual system pressure of approximately 41 psi (see Figure 2). This calculated system pressure was 4 psi lower than the pressure observed in the field. This model simulation result confirms the ability of the City’s existing water distribution system to provide approximately 1,125 gpm at the Project at a pressure of ±40 psi, if local wells 49, 100, 214, 217, and 284 are all operating at their design points, and the booster pump station at Tank 8 is in service.

Hydrant Test with Tank 8 Booster Pump Station Out of Service

Hydraulic modeling indicates that if the pump station located at Tank 8 were to be taken out of service (for maintenance or other reasons), system pressures would fall significantly below the City’s minimum 40 psi requirement, even with all available wells turned on. If the 1,126 gpm fire flow demand occurred during a time period when the Tank 8 booster pump station was out of service, pressures at the Project area would drop significantly (resultant system pressures would be less than 20 psi), indicating that there is inadequate supply to maintain pressures in the region (see Figure 3). It should also be noted that this area of the City has experienced groundwater supply reliability problems, due to chemical and/or radionuclides impacting the groundwater drinking supplies.

This result indicates that a redundant booster pump of the same size must be installed at Tank 8 to ensure system reliability, and the ability to maintain minimal pressures and flows during a loss of one of the pumps.
CONCLUSION

Results from the September 2003 hydraulic model validated the field observations obtained during the hydrant flow test near 414 East Glenn Avenue by the City’s Fire Department. In addition, the analysis indicated that a redundant pump at Tank 8 is necessary to be able to reliably maintain required system pressures and flows. Therefore, as a condition of annexation, we recommend that the Project’s applicant be conditioned to provide funding for the installation of a redundant pump and associated appurtenances to connect this pump into the existing distribution system, at the Tank 8 reservoir site.
Figure 2

City of Modesto
GLENN AVE HYDRANT FLOW TEST
RESIDUAL PRESSURES
Figure 3

City of Modesto
GLEN AVE HYDRANT FLOW TEST
RESIDUAL PRESSURES W/O TANK & PUMP STATION
A RESOLUTION FINDING THAT THE PREZONE TO PREZONED PLANNED DEVELOPMENT, P-PD (570), AND ANNEXATION TO THE CITY OF MODESTO AND MODESTO SEWER DISTRICT NO. 1 AND DETACHMENT FROM THE INDUSTRIAL FIRE PROTECTION DISTRICT OF 20 ACRES OF PROPERTY LOCATED SOUTH OF GLENN AVENUE AND EAST OF CROWS LANDING ROAD IS WITHIN THE SCOPE OF THE URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH No. 1999082041)

WHEREAS, on August 15, 1995, by Resolution No. 95-409, the City Council of the City of Modesto certified the Master Environmental Impact Report ("EIR") for the Urban Area General Plan (SCH No. 1999082041); and

WHEREAS, on March 4, 2003, by Resolution No. 2003-122, the City Council of the City of Modesto certified the amendments to the Master EIR for the Urban Area General Plan (SCH No. 1999082041); and

WHEREAS, Larry Buchner Trust has filed an application requesting that the 20+/- acres of property located south of Glenn Avenue and east of Crows Landing Road ("Property") be prezone to Prezoned Planned Development, P-PD (570); and

WHEREAS, the City of Modesto proposes to prezone the Property as requested and adopt a Resolution of Application to the Stanislaus County Local Agency Formation Commission for a proposed reorganization to annex the Property to the City of Modesto and the Modesto Sewer District No.1 and to detach the Property from the Industrial Fire Protection District; and

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

WHEREAS, the Initial Study EA/C&ED 2004-63 was considered by the City Council at a duly noticed public hearing which was held on December 14, 2004, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California.

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

1. The type of Projects under consideration are described in Chapter II of the Master EIR.

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

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Developed Area.

4. Based on the Initial Study, the City of Modesto finds and determines:
a. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/C&ED 2004-63, provides the substantial evidence to support findings I through 4, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community 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 14th day of December, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

INITIAL STUDY
EA/C&ED 2004-63
City of Modesto

Finding of Conformance to
General Plan Master EIR:

Initial Study C&ED No. 2004-63

For the proposed
Buehner Reorganization
(Eagle Valley Investments, Inc., Applicant)

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

November 4, 2004
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

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

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

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. No new or additional mitigation measures or alternatives are required.

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

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

City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments and conditions are incorporated into this Initial Study. The City's MEIR (SCH# 1999082041) was also consulted which lists both General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Buehner Reorganization

B. Address or Location: South side of Glenn Avenue east of Crows Landing Road and adjacent to the west of the Union Pacific Railroad tracks.

C. Applicant: Eagle Valley Investments, Inc., 801 S. 7th Street, Modesto, CA 95351

D. Application Contact Person: Chann Eayrs

City Project Manager: Cindy van Empel, Senior Planner
Department: Community & Economic Development Department
Phone Number: (209) 577-5280
E-mail address: cvanempel@modestogov.com

E. Current General Plan Designation(s): I, Industrial

F. Current Zoning Classification(s): Stanislaus County has zoned the property M, Industrial

G. Surrounding Land Uses: West: vacant industrial land in the City
North: vacant and built industrial land in the City
East: Union Pacific Railroad tracks; east of the tracks is vacant and built industrial land within City limits
Southeast: built industrial land in the City
Southwest: vacant industrial land in the County

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant seeks to annex the subject 20+/- acre parcel to the City of Modesto to allow more intensive development than would be permitted without public sewer and water connections. Prezone to PD, Planned Development are included as part of the application.

A Vesting Tentative Subdivision Map for the site has been filed with the Community and Economic Development Department. Because staff has an application for a Tentative Map, an evaluation of the Map is included in this Initial Study. However, the Tentative Map cannot be processed until after the project site is annexed and the zoning becomes effective. Additionally, there is inadequate information at this time to complete review of the Tentative Map. The City has requested the applicant prepare studies demonstrating the proposed storm drainage basin is adequate to serve the subdivision described by the Vesting Tentative Subdivision Map. Following annexation, prezoning, and receipt of complete drainage studies, the City will prepare an Initial Study to evaluate the potential impacts of development of this site.

A map of the site area is shown as Exhibit A and a map of the site is shown as Exhibit B.

I. Other Public Agencies Whose Approval is Required:

Local Agency Formation Commission

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

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

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

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

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
C&ED No. 2004-63
November 12, 2004
C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion:

(1) The City of Modesto is the Lead Agency for processing the requested land use entitlements (i.e.: prezoning and annexation).

(2) The subject project proposes improvements to an existing site located within the Baseline Developed Area. The site is a single parcel which is occupied by two mobile homes and various accessory buildings.

(3) The Master EIR was last updated in March 2003. Since that update, there have been no changes to Federal, State, Regional and County regulations that have resulted in less restrictive regulations.

(4) The subject site, approximately 20 acres designated in the Urban Area General Plan as I (Industrial) and prezoned PD (Planned Development), is proposed to be annexed to the City of Modesto. After the application proposals were referred to Trustee Agencies, no significant resources are identified in this proposal.

(5) The subject area is located within the Modesto Urban Area General Plan in the Baseline Developed Area, as shown on Figure II-1 on page II-8 in the General Plan. All
appropriate mitigation measures as listed in the Master EIR and attached to this document are incorporated into the project.

(6) A Global list of General Plan Policies and Mitigation Measures was reviewed (which is attached to this document) and appropriate Mitigation Measures will be required as part of the project's approval.

IV. ENVIRONMENTAL ANALYSIS

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

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

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

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

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

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

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

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

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

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

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-6 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The Master EIR for the Urban Area General Plan included the subject site. The annexation of property designated for industrial uses is consistent with the Master EIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

YES NO

(1) The project would contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 ADT thresholds. Such Projects are presumed to generate more trips than assumed by the Master EIR.

Where a project exceeds an additional 100 ADT contribution, as compared to the analysis in the Master EIR, a site access study will be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study will recommend new, project-specific mitigation measures. Where the project also exceeds the Master EIR’s traffic generation assumption, as determined by Engineering and Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.

YES NO

(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).
(3) Result in inadequate emergency access. ☐ X

(4) Result in inadequate parking capacity. ☐ X

Discussion:

(1) The project was referred to the Engineering and Transportation Division of the Public Works Department. Staff did not cite the need for a site access study.

(2) The project was referred to the Engineering and Transportation Department and the Transportation Division commented that City's Standards Specifications require that the Glenn Avenue be dedicated and improved to full City Street Standards when development is approved for the site. Certain other street improvements will be established during review of the Vesting Tentative Subdivision Map.

(3) The project was referred to the City of Modesto Police and Fire Departments. The City Fire Marshal and the Police Department indicated that those departments are able to provide adequate service to the site. When development is approved, specific conditions will be applied to that future development to ensure compliance with City development standards.

(4) Annexation and prezoning will have no effect on parking in the area. Future development on the site will be required to comply with City standards for parking.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

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

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

Effect: Projected traffic levels will result in increased ROG and NOx levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

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

Discussion:

Construction impacts would be less than significant with implementation of Mitigation Measure Air-1 (page V-2-24 in the MEIR). No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.
c. Project-Specific Effects

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

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

1. The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District’s (SJVUAPCD) adopted CEQA Guidelines.

2. The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.

3. The project does not comply with the air quality policies of the Modesto Urban Area General Plan.

4. The project would expose sensitive receptors to substantial pollutant concentrations.

5. The project would create objectionable odors affecting a substantial number of people.

Discussion:

1-3) Annexation and prezoning of this property, designated for Industrial use, was anticipated in and is consistent with the Urban Area General Plan Master EIR. Future development of the site will occur following the approval of a Vesting Tentative Subdivision Map, which will also be subject to an Initial Study. Development projects must comply with Rules established by the San Joaquin Valley Unified Air Pollution Control District for reducing air quality impacts.

4) The site is designated for Industrial use and adjoins industrial property on all sides. The site is expected to be developed with industrial uses in the future, which may result in substantial air pollution, however, there are no sensitive receptors nearby.

5) The site is designated for Industrial use and adjoins industrial property on all sides. The site is expected to be developed with heavy industrial uses in the future, which may result in objectionable odors, however, there are no sensitive receptors nearby.
3. NOISE

a. Significant Effects Identified in the Master EIR

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

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City’s Noise Significance Standards (see Table 3-3 MEIR).

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

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-9 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project.

Discussion:

Table V-3-3 indicates the normally acceptable outdoor noise level in an industrial area is 70dB CNE. The project site is adjacent to a spur of the Union Pacific Railroad mainline that serves the industrial area. Due to the rail spur, a portion of the site lies within the 65dB Ldn contour. Both CNE and Ldn are measures of noise that factor in use of a site during non-business (evening and nighttime) hours. However, because this is an Industrial site and because the greatest noise level expected on the site is 65dB Ldn, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance. YES NO ☐ X

(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan. ☐ X

(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ X
The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

**Discussion:**

1. The acceptable outdoor noise level is 70dB CNEL and the site lies within the 65dB L_{eq} noise contour, thus, no significant impact from noise would be expected on the project site.

2-3. The subject site is planned for Industrial use and is adjacent to properties planned for and developed with industry. No sensitive receptors are in the vicinity of the site. Future development on site is expected to be consistent with that on surrounding properties and is expected to result in a similar noise environment.

4. Although the project site lies in an industrial area, exterior noise levels could rise to unpleasant levels if more than one piece of construction equipment is operating simultaneously. In order to reduce the temporary noise impacts associated with construction, equipment should be equipped with mufflers, shrouds, and shields for noise reduction.

4. **AGRICULTURAL LANDS**

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

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

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

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

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

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-4 through V-4-8 in the MEIR.

**Discussion:**

The subject property is designated for Industrial use and is not in agricultural production. Further, the site is identified by the California Department of Conservation as Important Farmland on Figure V-4-1 in the MEIR. The project site is also shown as lying within the Baseline Developed Area, as shown on page II-8 in the Urban Area General Plan. Policy AL-
17 (MEIR, page V-4-7) states that if a subsequent project is within the Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural land and no mitigation is required. Thus, no new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The Modesto Urban Area General Plan designates the site as I, Industrial. No change in the Industrial designation is proposed. The prezone to PD is intended to establish site design standards, but the site would be developed with industrial uses.

(2) The subject site is within the March, 2003, planning area boundary.

(3) The site is not zoned for agriculture, nor is there a Williamson Act contract on the property.

(4) The site is in the Baseline Developed Area, and, thus, is considered to have a minimal effect on the conversion of agricultural land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

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

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

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

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

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

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

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ YES X NO

(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. □ YES X NO

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. The proposed annexation and prezone are consistent with the City's General Plan.
(2) There is an adequate quantity of water to serve the industrial use expected to occur on the property. The site will be supplied from water held at a nearby water tank. However, the delivery system lacks adequate redundancy to ensure a consistent water supply. The applicant will be required to provide a backup pump and generator at the tank prior to the construction of any new buildings, which will provide the needed redundancy in the system (see Exhibits C & D).

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

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

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a) (MEIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of Best Management Practices for post-construction activities, and Urban Area General Plan policy V-D.2(a), will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

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

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

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study, are found on pages V-6-2 through V-6-7 of the MEIR. All feasible measures appropriate to the project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.
c. Project-Specific Effects

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

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

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

(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. Annexation and prezoning of the site will result in ultimate development of the site consistent with the City's General Plan.

(2) Annexation and prezoning of the site would be consistent with the existing Industrial designation on the site. A 30-inch sewer line lies adjacent to the project site in Glenn Avenue. Because industrial development typically creates small amounts of wastewater, Capital Planning staff has indicated that the wastewater treatment and conveyance system is adequate to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects identified in the Master EIR

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

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

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

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-15 through V-7-21 of the MEIR. All feasible measures
appropriate to the project to be incorporated into or made conditions of approval of this project
are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1a in the
MEIR. Therefore, no mitigation measures from the MEIR are required to be applied to the
project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

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

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

(1) The project is inconsistent with the Modesto Urban Area General Plan. YES NO
   □ X

(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. □ X

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. □ X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation, prezone, and Vesting Tentative Subdivision Map are consistent with the City’s General Plan.

(2) The site lies outside the Biological Resource Study Area and there is no specific information known that would suggest the possible presence of significant plant or animal species on or near the project site.

(3) See discussion above. In addition, there are no mature trees on the project site.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

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

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

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur, since the buildings to be removed or demolished are not considered to have historical significance.

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

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-8-9 through V-8-14 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

The site proposed for annexation into the City of Modesto is currently occupied by two mobile homes and some accessory structures, but is otherwise vacant. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

1. The project is inconsistent with the Modesto Urban Area General Plan. YES NO □ X
2. The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. □ X

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation, prezoning,
and Vesting Tentative Subdivision Map applications for this site are consistent with industrial uses anticipated by the Urban Area General Plan.

(2) The MEIR did not identify a listed or eligible cultural resource either on or in the vicinity of the site, thus no impacts are expected to occur.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

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

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

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-3 through V-9-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Annexation and prezoning of the site will not directly result in development. Future development of the site will occur following approval of a Vesting Tentative Subdivision Map, prior to which the size of a storm drainage basin will be proposed and appropriate studies prepared. The 20-acre site is more than adequate to accommodate a storm drainage basin for future development; the future storm drainage basin must be sized and designed in accordance
with City standards. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

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

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

<table>
<thead>
<tr>
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(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.
(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. Annexation of the property to the City and prezoning it PD for industrial development are consistent with the City’s General Plan.

(2-3) The project does not include site development. However, the City has received an application for a Vesting Tentative Subdivision Map, which shows a lot intended to serve as a storm water drainage basin. However, the design of the Vesting Tentative Subdivision Map will be evaluated to determine the appropriate size of the drainage basin. An additional Initial Study will be prepared for the VTSM. Future development will be required to control storm drainage in accordance with the City’s Guidance Manual for New Development Stormwater Quality Control Measures.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

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

Effect: Increased runoff can accelerate soil erosion, stream channel scouring and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.
Effect: The potential impacts of the project on surface water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

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

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-4 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

As shown on Figure V-10-1b in the MEIR, the project site does not lie in an area having a potential for flooding. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

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

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

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

Discussion:

(1) The subject site, designated Industrial in the Modesto Urban Area General Plan, is consistent with the City's General Plan and is located in an area that is developed with industrial uses.

(2) Development on the site will be required to comply with the Clean Water Act and the Porter-Cologne Act. The City will require adherence to any Clean Water Act requirements it deems appropriate.

(3) Future development on the site must comply with the City's Guidance Manual for New Development Storm Water Quality Control Measures. Compliance is ensured through review of building plans and building inspection.

(4) The site will be developed to City standards with full street improvements along the project's Glenn Avenue frontage. The correct size of the storm water drainage basin will be verified by City staff when soils tests and percolation rates become available. The Vesting Tentative Subdivision Map will be reevaluated in an Initial Study prior to the public hearing.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

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

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

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

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

Parks and Open Space Mitigation Measure(s) pertinent to the proposed project are found on pages V-11-3 through V-11-9 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.
Discussion:
No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

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<td><strong>(1)</strong></td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
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Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and prezoning are consistent with the City’s General Plan and future industrial development on the site is expected to be consistent, as well. Appropriate Capital Facility Fees, including parks fees, must be paid before any building permits can be issued. Fees applied to new development on the site will be those fees in effect at the time the Vesting Tentative Subdivision Map is approved.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

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

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

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

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

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-3 through V-12-7 in the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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

Discussion:

1. The subject site is designated Industrial in the Modesto Urban Area General Plan, with which the proposal is consistent. The site is located in an area that is developed with industrial uses.

2. Future development on the site will be required to comply with the provisions of SB 50/Proposition 1A and must pay schools fees in effect at the time the Vesting Tentative Subdivision Map is approved.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

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

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.
Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-2 through V-13-4 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

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<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
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<tr>
<td>(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.</td>
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Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. Future development on the site is expected to be industrial and, therefore, consistent with the City's General Plan.

(2) The Police Department's ideal ratio of officers to residents is 1.85 per 1,000, although the current ratio is approximately 1.3 per 1,000. The Modesto Police Department has indicated that it has the ability to provide adequate service to the project site.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:
Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

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

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

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

Fire Services mitigation measure(s) pertinent to the proposed project are found on pages V-14-2 through V-14-5 of the MEIR. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

YES NO

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

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

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation and prezoning, as well as the expected future industrial development are consistent with the City's General Plan.
The Modesto Fire Department currently provides fire protection to the project site by contract. The site must detach from the contract area as part of annexation; the Fire Department has indicated that it can provide adequate service to the subject site. Future development on the site will be required to meet all City Fire safety requirements.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

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

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

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the proposed project are found on pages V-15-3 through V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

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

City of Modesto Finding of Conformance
General Plan Master EIR 26
Initial Study
C&ED No. 2004-63
November 12, 2004
Discussion:

(1) The subject site is designated Industrial in the Modesto Urban Area General Plan. The site is located in an area that is developed with industrial uses. The annexation and prezone and expected future industrial development are consistent with the City's General Plan.

(2) This project was referred to the Solid Waste Division of the City's Department of Public Works, which had no comment regarding this project's impact on solid waste disposal capacity.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

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

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

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under Federal, State, and County policies and regulations and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to this document.

Hazardous Materials Mitigation Measures pertinent to the project being analyzed in this Initial Study are found on pages V-16-5 through V-16-12 in the MEIR. Because the property is planned for industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site. Mitigation measures from the MEIR will be applied to the Vesting Tentative Subdivision Map to ensure compliance with all appropriate regulations. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

Actions to approve the annexation, pre zoning, and Vesting Tentative Subdivision Map do not require mitigation measures for hazardous materials, as these approvals do not generate hazardous materials. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts due to development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.  
2. The project does not comply with all applicable Federal, State, and County standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.  
3. The project contains a contaminated site not identified as of March 2003.  
4. The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.  
5. The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The project and future industrial development expected to occur on the site is consistent with the City's General Plan.

2. Because the property is planned for industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site. The Vesting Tentative Subdivision Map will be conditioned ensure that any hazardous materials used on site are properly identified, handled, and stored.

3-5. The City's Final Master Environmental Impact Report lists hazardous materials sites and this project is not near any of those sites. Additionally, the property lies more than ¼ mile from the nearest school.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

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

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

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

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

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-5 through V-17-7 in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures pertinent to the project are found on pages V-17-5 through V-16-12 in the MEIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

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

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

YES NO

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

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

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area that is developed with industrial uses. The annexation, prezone, and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) According to the MEIR's physical description of the General Plan study area, the site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction or collapse.
18. **ENERGY**

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

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

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

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

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

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

**Discussion:**

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. **Project-Specific Effects**

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

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

1. The project is inconsistent with the Modesto Urban Area General Plan.

   **YES** NO
   □ X

**Discussion:**

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan. It is located in an area that is developed with industrial uses. The annexation, prezone, and Tentative Map are consistent with the City's General Plan.
Parking areas that will eventually be created to serve future development will be required to contain shade trees as required in the Modesto Municipal Code. Enforcement will occur through site plan review when building permits are applied for.

19. PLANNING AND LAND USE

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

a. Project-Specific Effects

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

1. The project is inconsistent with the Modesto Urban Area General Plan. ☐ X
2. The project includes a substantive amendment to the Modesto Urban Area General Plan. ☐ X
3. The project would physically divide an established community. ☐ X

Discussion:

1. The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area developed with industrial uses. Annexation is consistent with expansion of the City described in the General Plan. The site is proposed to be rezoned to PD, Planned Development, which is intended to establish design standards for the site. Industrial uses consistent with the Industrial designation would be developed on the property.

2. The project involves annexation to the City consistent with expansion of the City anticipated in the General Plan. No amendment to the Modesto Urban Area General Plan is proposed.

3. The project is an expansion of an existing industrial area; no community will be divided as part of this proposal.

20. AESTHETICS

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

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

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(1) The project is inconsistent with the Modesto Urban Area General Plan. D X
(2) The project would have a substantial adverse effect on a scenic vista. D X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. D X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. D X

Discussion:

(1) The subject site is designated as Industrial in the Modesto Urban Area General Plan and is located in an area developed with industrial uses. Annexation would have no effect on aesthetics, however, the proposed Planned Development zone would establish design criteria for new industrial development in order to improve the overall quality of physical development in the area.

(2-4) The project is located within an established industrial area and there are no scenic vistas of or from the area. The expansion of the existing school is consistent with the type of development in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Traffic and Circulation Measures:

Mitigation Measure TC-6 (page V-1-7 of the MEIR)

Road Objective 3: Develop a roadway system that supports efficient goods movement within and through the region.

Policy 3A: Ensure that local transportation design standards and land use planning anticipate the infrastructure and operational needs of trucks, rail, and air transportation.
Policy 3B: Promote the use of analytical techniques to identify goods movement-related transportation deficiencies and to evaluate the potential benefits of transportation improvement projects.

Air Quality Measures:

Mitigation Measure Air-1: PM10 Control Measures (page V-2-24 of the MEIR)

1. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites:
   
a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
   
b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
   
c. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
   
d. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.
   
e. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.
   
f. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.)* *(Use of blower devices is expressly forbidden.)*
   
g. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
   
h. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
   
i. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

Noise Measures:

None
Agricultural Land Measures:
None

Water Supply Measures:
None

Sanitary Sewer Service Measures:
None

Sensitive Wildlife and Plant Habitat Measures:
None

Archaeological or Historic Sites Measures:
None

Storm Drainage Measures:

Mitigation Measure SD-4 (page V-9-4 of the MEIR)

Plans and specifications for new stormwater facilities within the City of Modesto are reviewed and approved by the engineering and Transportation Department. Development of stormwater drainage facilities must be in compliance with the requirements for the installation of Best Management Practices (BMPs) as defined in the City's Comprehensive Stormwater Management Program (CSMP), and as outlined in the City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities, adopted December 12, 2000.

Mitigation Measure SD-5 (page V-9-4 of the MEIR)

Two-thirds of the Baseline Developed Area is served by underground injection of urban runoff, commonly termed "rockwells." New rockwells will be discouraged within the Baseline Developed Area. Instead, new storm drainage in the Baseline Developed Area shall be by means of appositive storm drainage systems unless the proposed service area is so isolated from surface waters that it is infeasible to provide positive drainage.

The new storm drainage facilities shall consider the drainage facility requirements presented in Table 9-1 of the Master EIR. This policy applies to both positive storm drainage systems and to new rockwells (which are generally discouraged) in the Baseline Developed Area. (General Plan Policy V-E.2[a])

Mitigation Measure SD-6 (page V-9-4 of the MEIR)

The Modesto Irrigation District shall be consulted during the preparation of drainage studies required by the Urban Area General Plan. (General Plan Policy V-E.2[b])
Mitigation Measure SD-7 (page V-9-4 of the MEIR)

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

Mitigation Measure SD-8 (page V-9-4 of the MEIR)

Storm water drainage facilities shall be constructed, operated, maintained, and replaced in a manner that will provide the best possible service to the public, given the financial abilities and constraints of the City and of the private sector alike. In developing implementation plans, consideration shall be given to rehabilitation of existing facilities, remediation of developed areas with inadequate levels of drainage service, and the timely expansion of the system for future development. (General Plan Policy V-E.2[d])

Flooding and Water Quality Measures:

None

Parks and Open Space Measures:

None

Schools Measures:

None

Police Services:

None

Fire Services:

None

Generation of Solid Waste

None

Generation of Hazardous Materials

Mitigation Measure HM-3 (page V-16-5 of the MEIR)


The Hazardous Materials Release Response Plans and Inventory Act (Section 25500 et seq. of the Health and Safety Code, also known as the Business Plan Act), requires businesses using hazardous materials to prepare a plan that describes their facilities, inventories materials and sets of emergency response plans, and training programs. Hazardous materials are defined as raw or unused materials that are part of a process
or manufacturing step, and they are not considered hazardous wastes. Health concerns pertaining to the release of hazardous materials, however, are similar to those relating to hazardous wastes. Often, the facilities subject to this act also generate hazardous wastes. Reports are filed with the county. The required plan also informs emergency responders of hazardous materials.

**Mitigation Measure HM-10 (page V-16-7 of the MEIR)**

The California Environmental Protection Agency is authorized to endow qualifying local agencies with oversight and permitting responsibility for certain state programs. The Unified Program was created by state legislation in 1993 to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

- b. California Accidental Release Prevention (CalARP) Program
- c. UST Program
- d. Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans
- e. Hazardous Waste Generator and Onsite Hazardous Waste Treatments (tiered permitting) Programs

**Mitigation Measure HM-12 (page V-16-8 of the MEIR)**

Stanislaus County is Certified Unified Program Agency authorized to administer a number of state programs at the local level. It regulates hazardous materials within its incorporated (including Modesto) and unincorporated areas. The County’s role includes the following (Stanislaus County 2002):

1. Implement Risk Management and Prevention laws to minimize chemical releases in the community.
2. Maintain hazardous materials response team to assist police and fire agencies during transportation and industrial accidents involving chemical spills.
3. Prepare and implement county’s Area Plan for emergency response to chemical spills in the community.
4. Permit and inspect removal of USTs.
5. Permit and monitor new USTs.
6. Oversee site investigation for soil and ground water contamination and clean-up.
7. Inspect hazardous waste generators.
8. Review procedures for storage, treatment and disposal of hazardous wastes.
10. Develop and implement the county Household Hazardous Waste collection program.
11. Inspect medical facilities to ensure compliance with state medical waste management laws.
12. Implement hazardous materials disclosure laws (business plans) to ensure access to information about chemicals handled by businesses.
Mitigation Measure HM-13 (page V-16-9 of the MEIR)

The City shall comply with all existing federal and state laws, which regulate the generation, transportation, storage, and disposal of hazardous materials (General Plan Policy V-M.2[a]).

Potential for Landslides and Seismic Activity

Mitigation Measure LSA-9 (page V-17-6 of the MEIR)

The City shall continue to require all new buildings in the City to be built under the seismic requirements of the Uniform Building Code, 1979 (or subsequent) edition. (General Plan Policy VI-B.2[b])

Mitigation Measure LSA-11 (page V-17-7 of the MEIR)

Any construction which occurs as a result of the Urban Area General Plan must conform with the current UBC regulations, which address seismic safety of new structures and slope requirements. As appropriate, the City will require a geotechnical analysis prior to tentative map review in order to ascertain site-specific subsurface information necessary to estimate foundation conditions. These geotechnical studies should reference and make use of the most recent regional geologic maps available from the California Department of Conservation Division of Mines and Geology. (General Plan Policy VI.E.1[a])

Energy

None

Planning and Land Use

None

Aesthetics

None

B. **Recommended Conditions of Project Approval**

1. The Vesting Tentative Subdivision Map application cannot proceed to Planning Commission until the annexation process is complete.

2. Coordinate with the City Attorney's office an agreement to assess this parcel's share of the acquisition and improvement of the southeast corner of Glenn Avenue and Crows Landing Road. There is an existing agreement with the Agrestis and Buzz Oates Construction for this acquisition and cost sharing. As this parcel will contribute traffic to that intersection, this parcel should share in the cost of acquiring and improving that corner.
3. Prior to approval of the Vesting Tentative Subdivision Map or the issuance of any building permits, a storm drainage basin must be constructed that meets City standards and as approved by the Director of Public Works.

4. The property is in Modesto Municipal Sewer District #1. Sewer service shall be taken from East Glenn Avenue.

5. Prior to any development on the property, the property owner shall provide an additional booster pump and generator at City Tank #8.

6. Storm water quality and runoff from the site must be mitigated. The new development guidelines must be followed.

7. Improvement plans shall be prepared by a California-licensed civil engineer and in accordance with City of Modesto standards.
AREA MAP OF PROPOSED ANNEXATION AND PREZONING TO P-D
TECHNICAL MEMORANDUM

DATE: January 15, 2004

TO: Will Wong, City of Modesto

CC: Jack Bond, City of Modesto
Craig Scott, City of Modesto

FROM: Gerry Nakano, Project Manager
Charles Duncan, Project Engineer
Carman Ng, Staff Engineer

SUBJECT: 414 East Glenn Avenue Fire Flow Comparison and Analysis

This Technical Memorandum summarizes the findings and conclusions of West Yost and Associates’ (WYA) technical evaluation of the ability and reliability of the City of Modesto’s (City) existing water distribution system to meet required minimum pressures and flows during an assumed high demand period plus fire flow condition, in the area of 414 East Glenn Avenue, in the South Modesto service area.

BACKGROUND

A 20-acre industrial parcel located in the vicinity of 414 East Glenn Avenue (Project) is planning to be annexed into the City. The subject property is planning to be sub-divided into 20 individual parcels, each approximately 1 acre in size. On August 20, 2003 at 10:30 AM, the City’s Fire Department performed a hydrant flow test at 414 East Glenn Avenue, and observed a flow of 1,126 gallons per minute (gpm) and a residual pressure of 45 pounds per square inch (psi) at the observed hydrant.

The City requested that WYA attempt to replicate the field-observed pressure and hydrant flow measurements using the September 2003 calibrated hydraulic water model of the City’s water system. The City also requested that a hydraulic analysis be performed to evaluate whether the field-observed pressure and flow measurements could be sustained if a nearby City well or pump station were assumed to be non-operational. Figure 1 provides a schematic location of these facilities. An analysis of Project water demands, or water supply availability was not part of the City requested analysis.
MODELING CRITERIA

The hydraulic modeling criteria used by WYA in the analysis of the City's existing water system are listed below:

- A demand of 131.5 million gallons per day as measured by the City's SCADA system on August 20, 2003 at 10:00 AM in Modesto (total within North and South Modesto), was replicated in the hydraulic simulation model. Individual SCADA flow data was also available for each of the City's groundwater supply wells.

- The September 2003 calibrated hydraulic model of the City's existing water system was used to evaluate the hydraulic conditions.

ANALYSIS AND FINDINGS

The South Modesto portion of the City's September 2003 calibrated hydraulic model was modified to reflect the supply conditions according to SCADA information provided for August 20, 2003 at 10:00 AM. WYA then ran the hydraulic simulation model to determine resultant system pressures during a 1,126 gpm hydrant fire flow at the Project. Then to evaluate system reliability/redundancy, this analysis was re-run, assuming that the booster pump supplying water from Tank 8 into the distribution system was out of service.

Hydrant Flow Test with Tank 8 Booster Pump Station Online

The hydraulic model simulation of a 1,126 gpm fire flow at the Project location produced a residual system pressure of approximately 41 psi (see Figure 2). This calculated system pressure was 4 psi lower than the pressure observed in the field. This model simulation result confirms the ability of the City's existing water distribution system to provide approximately 1,125 gpm at the Project at a pressure of ±40 psi, if local wells 49, 100, 214, 217, and 284 are all operating at their design points, and the booster pump station at Tank 8 is in service.

Hydrant Test with Tank 8 Booster Pump Station Out of Service

Hydraulic modeling indicates that if the pump station located at Tank 8 were to be taken out of service (for maintenance or other reasons), system pressures would fall significantly below the City's minimum 40 psi requirement, even with all available wells turned on. If the 1,126 gpm fire flow demand occurred during a time period when the Tank 8 booster pump station was out of service, pressures at the Project area would drop significantly (resultant system pressures would be less than 20 psi), indicating that there is inadequate supply to maintain pressures in the region (see Figure 3). It should also be noted that this area of the City has experienced groundwater supply reliability problems, due to chemical and/or radionuclides impacting the groundwater drinking supplies.

This result indicates that a redundant booster pump of the same size must be installed at Tank 8 to ensure system reliability, and the ability to maintain minimal pressures and flows during a loss of one of the pumps.
CONCLUSION

Results from the September 2003 hydraulic model validated the field observations obtained during the hydrant flow test near 414 East Glenn Avenue by the City's Fire Department. In addition, the analysis indicated that a redundant pump at Tank 8 is necessary to be able to reliably maintain required system pressures and flows. Therefore, as a condition of annexation, we recommend that the Project's applicant be conditioned to provide funding for the installation of a redundant pump and associated appurtenances to connect this pump into the existing distribution system, at the Tank 8 reservoir site.
Figure 2

City of Modesto
GLENN AVE HYDRANT FLOW TEST
RESIDUAL PRESSURES

LEGEND

CITY TANK & PUMP STATION
IN SERVICE CITY WELL
OUT OF SERVICE CITY WELL
PRESSURE LESS THAN 50 PSI
PRESSURE BETWEEN 20 & 40 PSI
PRESSURE BETWEEN 40 & 60 PSI
PRESSURE BETWEEN 60 & 80 PSI
PRESSURE HIGHER THAN 80 PSI

SCALE IN FEET
0 400 800

CITY OF MODESTO

HYDRANT FLOW TESTED = 1128 GPM
GLENN AVENUE

SUBJECT PROPERTY
20 ACRES

HATCH ROAD
NELSON WAY
MORGAN ROAD

CROWS LANDING ROAD

TANK 7
Figure 3

City of Modesto
GLEN AVE HYDRANT FLOW TEST
RESIDUAL Pressures W/O TANK 8 PUMP STATION

LEGEND

CITY TANK & PUMP STATION
IN SERVICE CITY WELL
OUT OF SERVICE CITY WELL
PRESSURE LESS THAN 10 PSI
PRESSURE BETWEEN 10 & 30 PSI
PRESSURE BETWEEN 30 & 40 PSI
PRESSURE BETWEEN 40 & 60 PSI
PRESSURE BETWEEN 60 & 80 PSI
PRESSURE HIGHER THAN 80 PSI

HATCH ROAD
NELSON WAY
CROW LANDING ROAD
GLEN AVE
MORAN ROAD

TANK 8
TANK 7

HYDRANT FLOW TESTED: 1128 GPM
SUBJECT PROPERTY: 20 ACRES
Cindy,

A recent hydraulic model analysis for the future development for 414 East Glenn Avenue concluded that, based on existing conditions in the area, the City of Modesto Water Distribution System is able to provide sufficient water supply to the proposed 19-unit development at 414 East Glenn Avenue. This determination is based on the proposed light industrial/commercial use of the development.

However, the analysis also identified a deficiency of the current water system. When the booster pump at Tank #8 is out-of-service (either due to repairs or electrical outages), there are water supply and pressure problems in the South Modesto water system.

Therefore, the City Engineering Department recommends that, before any permits are issued for this development, improvements must be made to Tank #8. These improvements include, but not limited to, an additional water booster pump, and back-up generator. The back-up booster pump and generator will provide reliability to the water system, and ensure the quality of water service can be maintained.

Cindy, if you have any questions or comments, please feel free to contact me at 1-5801. Thanks.
A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO 2004-2005 HUD ANNUAL ACTION PLAN.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the Modesto City Council, at its May 11, 2004, meeting approved the adoption of the 2004-2005 Annual Action Plan, and

WHEREAS, City staff has proposed amendments to the Annual Action Plan, and said proposed amendments are as set forth in Exhibit “A” attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to notify the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began November 12, 2004, and ended on December 14, 2004, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 19, 2004, meeting, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 14, 2004, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2004-2005 Annual Action Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the 2004-2005 Annual Action Plan as presented to the Council is hereby approved, and a copy of said Amendment to the 2004-2005 Annual Action Plan is attached hereto as Exhibit “A” and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Acting City Manager, or his designee, is hereby authorized to execute any documents with respect to the Amendment to be submitted to the Regional HUD office.

BE IT FURTHER RESOLVED that any and all documents necessary to implement the Action Plan shall require further Council approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December, 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
## FY 2004-2005 CDBG Budget

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**Infrastructure & Public Improvement** | 1,313,337 | 1,831,127 | 3,144,464  |
| 04-05 ADA Improvements - Curb Ramps        | 101,912  | 45,000    | 146,912   |
| 04-05 Street Paving in Low Income Areas    | 130,000  | 291,536   | 421,536   |
| Neighborhood-Based Projects                | 30,000   |           | 30,000    |
| Property Acquisition                       | 849,927  | 254,891   | 1,104,818 |
| Neighborhood Center at Marshall Park (includes $100K for playground equipment) | 245,000  |           | 245,000   |
| Maddox Youth Center                        | 144,700  |           | 144,700   |
| ADA Improvement - King Kennedy Center      | 20,000   |           | 20,000    |
| KKMC Neighborhood Collaborative            | 125,000  |           | 125,000   |
| Public Improvement - Robertson Road Park   | 20,000   |           | 20,000    |
| 03-04 ADA Improvements - Curb Ramps        | 45,000   |           | 45,000    |
| 1230 12th Street (SSN Bldg) Retrofit       | 201,498  |           | 201,498   |
| Property Acquisition - Habitat for Humanity | 640,000  |           | 640,000   |

**Neighborhood Preservation & Stabilization** | 298,416  | 12,000   | 310,416   |
| Alley Closure                              | 15,723   |           | 15,723    |
| Neighborhood Clean-up Projects             | 18,000   | 12,000    | 30,000    |
| Code Enforcement                           | 238,971  |           | 238,971   |
| Community Based Development Organizations  | 25,722   |           | 25,722    |

**Economic Development** | 0 | 20,000 | 20,000 |
| Workforce Development Program              | 20,000   |           | 20,000    |
### FY 2004-2005 CDBG Budget

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A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 11, 2004, meeting approved the adoption of the 2004-2005 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that changes should be made to programs and services provided to better meet the needs of the citizens of Modesto, and

WHEREAS, these program changes require reallocation of operating budget funds, and

WHEREAS, reallocation of these funds is more fully described on Exhibit “A”, attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 19, 2004, meeting, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 14, 2004, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010
Tenth Street, to consider approval of the proposed amendments to the 2004-2005 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2004-2005 Annual Operating Budget is hereby amended to reallocate the Community Development Block Grant (CDBG) as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Acting City Manager, 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 14th day of December, 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

Contact Person: Grace Hsu  
Telephone No.: 571-5506  
Department: Parks, Recreation & Neighborhoods  
Fund Title: CDBG Fund 1130  
(Operating Budget)

Council Action Date:  
Resolution Number:  
FY: 2004 - 2005  
Transfer No.  

**DEPARTMENTAL REVENUES**

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<tr>
<th>Fund-Agency-Organization</th>
<th>Appropriation Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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<td></td>
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<td></td>
</tr>
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<td></td>
<td>861,851</td>
<td>Total</td>
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</tbody>
</table>

**Fund 1130**

| Fund 1130 | 248,154 | 613,697 | 861,851 | Total |

**APPROPRIATIONS**

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<tr>
<th>Fund-Agency-Organization</th>
<th>Appropriation Code</th>
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<th>Increase/Decrease</th>
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Exhibit A  
(CDBG Operating Budget)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods

Council Action Date:
Resolution Number:
FY: 2004 - 2005
Transfer No.

Fund Title: CDBG Fund 1130
(Operating Budget)

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

Adjustments for FY04-05 CDBG Operating Budget reflect changes on the HUD Annual Action Plan Amendment.

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

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

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

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: CDBG RLF Funds 1150, 1151, 1152 (Operating Budget)

<table>
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<tr>
<th>Fund-Agency-Object</th>
<th>Appropriations Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
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COMMENTS/JUSTIFICATION

Adjustments for FY04-05 RLF (Revolving Loan Fund) reflect changes on the HUD Annual Action Plan Amendment.

Exhibit A
(RLF Operating Budget)
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-689

A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 FUNDING FOR THE CAPITAL IMPROVEMENT BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 11, 2004, meeting approved the adoption of the 2004-2005 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that additional revenue from prior years’ carryover Community Development Block Grant (CDBG) program funds will be available for capital improvement projects, and

WHEREAS, staff recommends that the available funding be programmed for new and existing projects, and

WHEREAS, programming of these funds is more fully described on Exhibit “A”, attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 19, 2004, meeting, and the Committee recommended that the City Council approve the amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 14, 2004, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010
Tenth Street, to consider approval of the proposed amendments to the 2004-2005 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2004-2005 funding for the Capital Improvement Plan Budget is hereby amended to estimate new revenue, appropriate new expenses and reallocate HUD Funds as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Acting City Manager, 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 14th day of December, 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

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

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: Funds 1130, 1190, 1300, 2300
(CIP M163: Neighborhood Center at Marshall Park)
(CIP M182: Maddux Youth Center)

<table>
<thead>
<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
<th>Description of Object</th>
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| APPROPRIATIONS | M163G | 223,200 | 100,000 | 323,200 | Engineering/Design/Admin |
| M163G | 3,256,765 | 145,000 | 3,401,765 | Construction |
| M163G | 200,120 | 0 | 200,120 | Contingency |
| M163G | 249,400 | 0 | 249,400 | Construction Admin |
| 1300-310-M182 3191 | M163G | 136,400 | 0 | 136,400 | Engineering/Design/Admin |
| M163G | 1,119,562 | 144,700 | 1,264,262 | Construction |
| M163G | 345,200 | 0 | 345,200 | Contingency |
| M163G | 207,400 | 0 | 207,400 | Construction Admin |
| M163G | 100,000 | 0 | 100,000 | Equipment |
| Total | 1,908,562 | 144,700 | 2,053,262 | |

| COMMENTS/JUSTIFICATION |

Adjustments reflect changes on the HUD Annual Action Plan Amendment

<table>
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<tr>
<th>AUTHORIZATION (check if required)</th>
<th>SIGNATURE</th>
<th>DATE</th>
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<tbody>
<tr>
<td>DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT</td>
<td>(Allocation of Dept Appr to Line-Item Level)</td>
<td></td>
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<tr>
<td>FINANCE DIRECTOR</td>
<td>(Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)</td>
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</tr>
<tr>
<td>CITY MANAGER</td>
<td>(Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)</td>
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EXhibit A (CIP Budget)
MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-690

A RESOLUTION AMENDING THE FISCAL YEAR 2004-2005 ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENT BUDGET TO REFLECT REVENUES AND APPROPRIATIONS AS ADOPTED, AND CARRYOVER AMOUNTS FROM PRIOR YEAR.

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 11, 2004, meeting approved the adoption of the 2004-2005 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that some adjustments need to be made in order to align the City’s budget to the HUD financial system, and

WHEREAS, some of these changes require a transfer of funds from the General Fund Reserve, and

WHEREAS, these changes are shown on Exhibit “A”, attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2004-2005 Annual Operating Budget and Capital Improvement Budget are hereby amended to reflect adjustments to the HUD fund as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Acting City Manager, 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 14th day of December, 2004, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

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

Contact Person: Grace Hsu
Telephone No.: 571-5506
Department: Parks, Recreation & Neighborhoods
Fund Title: CDBG Fund 1130

Council Action Date: ___________________________
Resolution Number: ___________________________
FY: 2004 - 2005
Transfer No. ___________________________

DEPARTMENTAL REVENUES

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

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COMMENTS/JUSTIFICATION

Adjustments required to re-appropriate unspent budget from FY'03-04 for on-going activities.

AUTHORIZATION (check if required) SIGNATURE DATE

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

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

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

Exhibit A
(CDBG Carryover)
# REQUEST FOR BUDGET ADJUSTMENT

**Contact Person:** Grace Hsu  
**Telephone No.:** 571-5506  
**Department:** Parks, Recreation & Neighborhoods  
**Fund Title:** Funds 1130, 1190, 1300, 2300  
(CIP M163: Neighborhood Center at Marshall Park)  
(CIP M182: Maddux Youth Center)

<table>
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<tr>
<th>Fund-Agency-Object</th>
<th>Appr Unit</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
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**COMMENTS/JUSTIFICATION**  
Adjustments required to reflect proper funding source for Section 108 Loan, and to correct revenue and appropriation amounts.

**AUTHORIZATION** (check if required)  
**SIGNATURE**  
**DATE**

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

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

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

EXhibit A (CIP Carryover)
REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Grace Hsu               Council Action Date:
Telephone No.: 571-5506               Resolution Number: __________
Department: Parks, Recreation & Neighborhoods
Fund Title: CDBG Fund 1130 & General Fund 0100
            (CIP: ADA Signal Devise)

<table>
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<tr>
<th>Fund-Agency-Object</th>
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</table>

Adjustments required to re-appropriate unspent budget from FY03-04.
This project was funded with $50,000 General Fund, transferred to CDBG.
Project initiated in FY02-03, started in FY03-04; to be completed in FY04-05.

DEPARTMENTAL REVENUES

APPROPRIATIONS

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

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

AUTHORIZATION (check if required) SIGNATURE DATE

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

Exhibit A
(GF/CDBG Carryover)
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-691

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR PROPOSALS (RFP) FOR LANDSCAPE MAINTENANCE SERVICES FOR ALL PARK, RIGHT-OF-WAY AND PUBLIC LANDSCAPING OWNED AND/OR MANAGED BY THE CITY OF MODESTO FOR A FIVE (5) YEAR PERIOD WITH AN OPTION TO RENEGOTIATE FOR AN ADDITIONAL FIVE (5) YEAR PERIOD AT AN ESTIMATED ANNUAL COST OF $1,200,000.

WHEREAS, the City of Modesto’s Parks, Recreation and Neighborhoods Department, Park Services Division provides landscape maintenance services to over 530 acres of landscaping for 66 parks and about 150 other landscaped sites including public buildings, street medians, sound walls, traffic islands and other miscellaneous sites, and

WHEREAS, funding for this maintenance is provided primarily by the City’s General Fund, although a number of sites are funded from other sources including the Tuolumne River Regional Park JPA, Parking Fund, Centre Plaza, Storm Drain Fund and several Community Facility Districts, and

WHEREAS, over the past four to five years there has been a dramatic decline in landscape maintenance service levels, and

WHEREAS, staff now desires to solicit Requests for Proposals (RFP) for Landscape Maintenance Services for all park, right-of-way and public landscaping owned and/or managed by the City of Modesto, and

WHEREAS, the pre-eminent reason for seeking proposals from the private sector is to determine if such an action would indeed restore those service levels that have deteriorated over the past 4-5 years at no greater a cost than is currently expended for landscape services at the existing service levels, and
WHEREAS, the Economic Development Committee met on September 13, 2004, and supported the recommendation to solicit Requests for Proposals for Landscape Maintenance Services, and

WHEREAS, the Finance Committee met on September 27, 2004, and supported the recommendation to solicit Requests for Proposals for Landscape Maintenance Services

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 Landscape Maintenance 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 Landscape Maintenance Services for all park, right-of-way and public landscaping owned and/or managed by the City of Modesto, for a five (5) year period, with an option to renegotiate for an additional five (5) year period, 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 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 14th day of December 2004, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2004-692

A RESOLUTION DIRECTING STAFF TO NEGOTIATE WITH MCEA AND MCMA RELATED TO THE POTENTIAL DISPLACEMENT OF FULL-TIME EMPLOYEES THAT MIGHT OCCUR AS A RESULT OF CONTRACTING OUT LANDSCAPE MAINTENANCE SERVICES, AND TO DECLARE AN IMPASSE IN NEGOTIATIONS IF THESE GROUPS AND THE CITY ARE UNABLE TO REACH AN AGREEMENT.

WHEREAS, the City of Modesto’s Parks, Recreation and Neighborhoods Department, Park Services Division provides landscape maintenance services to over 530 acres of landscaping for 66 parks and about 150 other landscaped sites including public buildings, street medians, sound walls, traffic islands and other miscellaneous sites, and

WHEREAS, staff now desires to solicit Requests for Proposals for Landscape Maintenance Services from pre-qualified bidders for all park, right-of-way and public landscaping owned and/or managed by the City of Modesto, and

WHEREAS, the Memoranda of Understanding between the City and the Modesto City Employees Association (MCEA) and the Modesto Confidential and Management Association (MCMA) provide for negotiation when full-time employees face potential displacement, and

WHEREAS, the Economic Development Committee met on September 13, 2004, and supported the recommendation to solicit Requests for Proposals for Landscape Maintenance Services, and

WHEREAS, the Finance Committee met on September 27, 2004, and supported the recommendation to solicit Requests for Proposals for Landscape Maintenance Services,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs staff to negotiate with MCEA and MCMA related to the potential displacement of full-time employees that might occur as a result of contracting out landscape maintenance services.

BE IT FURTHER RESOLVED that the Council authorizes staff to declare an impasse in negotiations if these groups and the City are unable to reach an agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of December 2004, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, 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