MODESTO CITY COUNCIL
RESOLUTION NO. 2003-62

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): AMENDMENT TO SECTION 27-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(558) PROPERTY LOCATED AT THE SOUTHWEST CORNER OF N. SANTA CRUZ AVENUE AND LA LOMA AVENUE (DAVID A. CERUTTI)

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, David A. Cerutti has proposed that the zoning designation for property located at the southwest corner of N. Santa Cruz Avenue and La Loma Avenue, be amended to rezone from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(558), in the City of Modesto (“the project”), to allow a car wash in conjunction with an existing convenience store and service station, 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 environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2002-63 (“Initial Study”) reviewed the proposed amendment to the Zoning Map and rezone to P-D(558) project to determine
whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on January 6, 2003 the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 28, 2003, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone from P-D(558) project, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 92052017) as being within the scope of the Master EIR report.

2. That the project will have no new additional significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).
4. That there are no specific features that are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: ________________________________
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Initial Study

EA/C&ED 2002-63
I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 92052017), adopted August 15, 1995, allows such limited review for projects in the Baseline Developed Area that are consistent with and within the scope of the Master EIR.

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

II. PROJECT DESCRIPTION

A. Project title:
   Public Hearing - Application of Horizon Consulting Services for General Plan amendment and rezone from R-1 (Neighborhood Commercial Zone) to P-D (Planned Development Zone) to allow an automatic car wash in conjunction with an existing convenience store and gas station, property located at the southwest corner of N. Santa Cruz and La Loam Avenues.

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

C. Contact person, address and phone number:
   Brad Wall
   City of Modesto Community Development Department
   1010 10th Street, Suite 3100
   Modesto, CA 95353
   (209) 577-5282

D. Project Location:
   Southwest corner of N. Santa Cruz and La Loma Avenues

E. Project Sponsor:
   David A. Cerutti

F. General Plan Designation:
   Commercial (C)

G. Current Zoning:
   Neighborhood Commercial (C-1)
H. Description of Proposed Projects:
This is an application to rezone a 0.9-acre parcel from C-1 (Neighborhood Commercial Zone) to P-D (Planned Development Zone), to allow an automatic car wash in conjunction with an existing convenience store and gas station, property located at the southwest corner of N. Santa Cruz and La Loma Avenues.

I. Surrounding land uses:
Residential land uses exist to the west, north and east of the subject property; a commercial land use exists to the south.

J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

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

A. Traffic and Circulation
The proposed planned development zone to allow an automatic car wash will contribute to increased traffic in the neighborhood. However, the proposed development is consistent with the Traffic and Circulation needs section of the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

B. Degradation of Air Quality
The proposed planned development zone to allow an automatic car wash is within the urban developed area of the City of Modesto. This use will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are therefore still valid.

C. Generation of Noise
The proposed planned development zone to allow an automatic car wash is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of residential uses. Because of building walls, fencing, structure setbacks, and hours of operation, the Day-Night Average Sound Level (Ldn) for this neighborhood area can be ensured. The applicant has prepared a noise study for the proposed project, which concludes that no significant noise impacts will be generated as a result of the proposed car wash use, nor will the adjacent neighborhood be impacted as a result of this use. It will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.

D. Loss of Productive Agricultural Land
The proposed planned development zone to allow an automatic car wash is located on property noted as Urban and Built-Up Land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. Also, the requested planned development zone and resulting professional office development is subject to conditions of approval. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.
E. **Increased Demand for Water Supplies**
The proposed planned development zone to allow an automatic car wash will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11 are therefore still valid.

D. **Increased Demand for Sanitary Sewer Services**
The proposed planned development zone to allow an automatic car wash will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.

G. **Loss of Sensitive Wildlife and Plant Habitat**
The proposed planned development zone to allow an automatic car wash is in a built-up urban area and will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are therefore still valid.

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

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

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

K. **Increased Demand for Parks and Open Space**
The proposed planned development zone to allow an automatic car wash will not have an effect upon the parks or open space needs in the area. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are therefore still valid.
L. **Increased Demand for Schools**  
The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

M. **Increased Demand for Police Services**  
The proposed planned development zone to allow an automatic car wash will have a less than significant impact upon the need for additional police services to this area. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are therefore still valid.

N. **Increased Demand for Fire Services**  
The proposed planned development zone to allow an automatic car wash will have a less than significant impact upon the need for additional fire services to this area. Fire Station Number 1 is located approximately 1.5 miles away, in downtown Modesto. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are therefore still valid.

O. **Generation of Solid Waste**  
The proposed planned development zone to allow an automatic car wash will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10), are therefore still valid.

P. **Generation of Hazardous Materials**  
The proposed project will not result in additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-15) are therefore still valid.

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

R. **Energy**  
The proposed planned development zone to allow an automatic car wash will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.
IV. CONCLUSIONS / DETERMINATIONS OF FINDINGS

A. The proposed planned development zone to allow an automatic car wash in conjunction with an existing convenience store and gas station is within the scope of the General Plan Master EIR (SCH No. 92052017), which analyzed the potential impacts of buildout of the Baseline Development Area.

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

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

D. There are no specific features unique to this proposed planned development zone that require specific mitigation measures. All certified mitigation measures identified in the General Plan Master EIR will apply Citywide, including this project as appropriate.

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

Signature:

Brad Wall,
Associate Planner
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-63

A RESOLUTION URGING THE CALIFORNIA LEGISLATURE TO REJECT THE GOVERNOR’S PROPOSED SHIFT OF LOCAL VLF REVENUES AND TO HONOR THE 1998 COMMITMENT TO RESTORE THE VLF

WHEREAS, prior to 1935, cities and counties collected property taxes on motor vehicles to fund essential local public health and safety services; and

WHEREAS, in 1935, the Legislature first enacted the Vehicle License Fee (VLF) Act, replacing the property tax on vehicles with a 1.75 percent fee charged against the value of the motor vehicle; and

WHEREAS, in 1948, the rate of the VLF was increased to 2 percent of the value of the vehicle; and

WHEREAS, in 1986, the voters voted overwhelmingly to constitutionally dedicate the proceeds of the VLF to fund city and county services; and

WHEREAS, in 1998, a period of strong economic growth, the Legislature approved the use of a portion of the rapidly growing state General Fund to reduce the VLF payments of vehicle owners. This amount, known as the “offset”, grew in future years to a 67.5 percent offset against the amount owed. The amount paid to local governments in lieu of the reduced VLF payment is shown as the “VLF backfill”; and

WHEREAS, the 1998 legislation and subsequent enactments contain clear provisions that when insufficient funds are available to be transferred from the General Fund to fully fund the offsets and backfill amount that the VLF offset shall be reduced and VLF payments increased; and

WHEREAS, VLF and backfill revenues constitute 15 to 25 percent of typical city and county general purpose revenues. On average, more than 60 percent of city general fund spending and more than half of county general funds go to front line law enforcement, fire, emergency medical services, and health care programs; and

WHEREAS, revenues derived from the VLF and backfill are of critical importance in funding vital local public health and safety services; and

WHEREAS, any failure by the Legislature to maintain the VLF backfill or restore the VLF will cause widespread disruption in local government services essential to the well-being of California citizens and their cities and counties; and
WHEREAS, Governor Davis’ proposal to divert $4 billion in local VLF backfill payments over the next 17 months fails to honor the 1998 commitment and is a direct assault on local services that will be felt by every California resident; and

WHEREAS, shifting $4.2 billion in locally controlled revenues for local services is neither equitable nor fair. No state program or department has been asked to shoulder such a disproportionate share of the budget pain. These cuts come on top of the nearly $5 billion each year that is transferred from local services to fund state obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MODESTO, CALIFORNIA, that if the state General Fund can no longer afford the expense of part or all of the VLF “backfill” that the Legislature and Governor of California are hereby respectfully urged to implement the provisions of current law providing for the reduction of the VLF offset in bad economic times and to restore the VLF in an amount necessary to reduce the VLF backfill; and

BE IT FURTHER RESOLVED, that the City Council of the City of Modesto hereby expresses its profound appreciation to the legislators who support such VLF restoration legislation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: ________________
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO FORM:

By: ________________
MIKE MILICH, City Attorney
A RESOLUTION REAPPOINTING JOAN BONACCINIE TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on January 13, 2003, and recommended its approval to reappoint JOAN BONACCINIE to the Golf Courses Advisory Committee.

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

SECTION 1. JOAN BONACCINIE is hereby reappointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2007.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

APPROVED AS TO FORM: Michael D. Milich, City Attorney

ATTEST: JEAN ZAHR, City Clerk

2003-64
MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-65

A RESOLUTION REAPPOINTING RAY FELLER TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Economic Development Committee met on January 13, 2003, and recommended its approval to reappoint RAY FELLER to the Board of Zoning Adjustment.

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

SECTION 1. RAY FELLER, as representative of the Planning Commission, is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2004.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of January, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

APPROVED AS TO FORM:  
Michael D. Milich, City Attorney  
ATTEST:  
JEAN ZAHR, City Clerk

01/28/03/CMO/Epuckett 1 2003-65
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-66


WHEREAS, on November 6, 2002, by Resolution No. 2002-533, the City Council of the City of Modesto adopted a written policy regarding the use of environmental assessments in the acquisition of real property, and

WHEREAS, written policy is set forth in Council Resolution 2002-533, and

WHEREAS, City staff is recommending amending the written policy regarding the use of environmental assessments in the acquisition of real property to provide an exemption in the acquisition of real property for the purpose of right of way improvements such as, but not limited to, street improvements, utility line installations, and landscaping, and

WHEREAS, the Council Economic Development Committee met on January 13, 2003, and recommended an amendment of the policy, and

WHEREAS, the City Council desires to amend said written policy regarding the use of environmental assessments in the acquisition of real property to allow for said exemption.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby amends the written City policy regarding the use of environmental assessments in the acquisition of real property by the City of Modesto as follows:

1. A Phase I Assessment shall be conducted on all real estate acquisitions.

2. A Phase I Assessment shall be conducted by an accredited environmental firm, chosen through a City selection process.

3. All contracts shall be administered by City staff.
4. A Phase II Assessment shall be conducted based on results of the Phase I Assessment and consultation with the contracted environmental firm. A Phase II Assessment shall be required if any indication or concern is raised in the Phase I Assessment.

5. Written approval/authorization of the decision regarding the completion of a Phase II Assessment shall be required by the Project Manager, Planning Division staff, and the Department Director.

6. The Council Agenda Bluesheet and Council Staff Report format for reporting Environmental Review shall continue to be used as part of this policy.

7. Acquisition of residential property may be exempt from this policy upon approval of the Department Director.

8. Acquisition of real property for the purpose of right of way such as, but not limited to, street improvements, utility line installations, and landscaping, may be exempt from this policy upon the approval of the Department Director.

BE IT FURTHER RESOLVED that Resolution No. 2002-533 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
[Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-67

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSALS FOR A WASTEWATER MASTER PLAN UPDATE OF THE CITY OF MODESTO’S WASTEWATER SYSTEM AND APPROVING THE PROPOSED EVALUATION CRITERIA FOR THE WASTEWATER MASTER PLAN UPDATE

WHEREAS, the City of Modesto’s sewer flows have increased as a result of the population growth experienced over the last few years, and

WHEREAS, due to the City’s expansion, the City’s Wastewater Treatment Plant and collection system are experiencing capacity constraints, and

WHEREAS, the last Wastewater Master Plan was completed in 1995 and the report’s findings are becoming out of date, and

WHEREAS, in order to continue to provide quality wastewater service for all current needs and for future economic growth, and before any major improvements can be made to the wastewater system, an updated wastewater master plan is necessary to determine current and future capacity constraints and identify improvements to correct these constraints, and

WHEREAS, City desires to proceed with a consultant selection process for the WWMP Update to include a Request for Qualifications and a Request for Proposals for said project, and

WHEREAS, City staff has proposed evaluation criteria to be included in the Request for Qualifications and the Request for Proposals, and

WHEREAS, Attachment A and Attachment B of the Director of Engineering and Transportation’s February 4, 2003, agenda report to Council contains the recommended evaluation criteria to be used in selecting a firm to perform the Wastewater Master Plan Update, and

WHEREAS, this study is a capital improvement project within the wastewater program (CIP Account #6210-480-Q229) for a total amount of $400,000 over fiscal years 2002/03 and 2003/04, and
WHEREAS, the Economic Development Committee met on January 13, 2003, and recommended proceeding with the consultant selection process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City staff to proceed with a Request for Qualifications and a Request for Proposals for a Wastewater Master Plan Update of the City of Modesto's Wastewater System.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the evaluation criteria contained in the aforementioned report is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-68

A RESOLUTION APPROVING THE TIMELINE FOR CITIZEN PARTICIPATION CALENDAR OF EVENTS FOR 2003-2004 HUD ANNUAL ACTION PLAN AND PUBLIC SERVICE GRANTS, AND FOR ESTIMATED AMOUNTS FOR THE PUBLIC SERVICE GRANTS.

WHEREAS, Federal Housing and Urban Development (HUD) regulations require the City of Modesto to have a Citizens Participation Plan which contains the City’s procedures for community participation in the development of the Annual Action Plan and the use of Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME) and Emergency Shelter Grant (ESG) funds, and

WHEREAS, by Resolution No. 97-696, on December 9, 1997, the City Council adopted and last amended its Citizen Participation Plan, a copy of which is available for review at the Recreation and Neighborhood Services Division office at Tenth Street Place, and

WHEREAS, the proposed calendar for citizen participation includes Public Service grant applications for CDBG as well as ESG proposals, and

WHEREAS, the proposed allocation of Public Service grants includes $150,000 to be designated to the Modesto Police Department for the operation of the Crime Free Multi Housing Project, and

WHEREAS, the proposed estimated RFP amounts for Public Service grants are $250,000 in CDBG funds and $88,000 in ESG funds, and

WHEREAS, at its January 24, 2003, meeting, the Citizens Housing and Community Development Committee considered and supported staff recommendations for the timeline for the Citizens Participation Calendar of Events for 2003-2004 HUD

...
Annual Action Plan and Public Service grants, and for the estimated RFP amounts for Public Service grants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the timeline for Citizens Participation Calendar of Events for 2003-2004 HUD Annual Action Plan and Public Service grants, and for the estimated RFP amounts for Public Service grants, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
# Citizen Participation Calendar of Events

<table>
<thead>
<tr>
<th>Activity</th>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>CH and CDC Meeting to approve the draft timeline for Citizen Participation Calendar of Events for 2003-2004 HUD Annual Action Plan and Public Service Grants; Tenth Street Place, Room 4001</td>
<td>Jan. 24, 2003</td>
<td>12:00 p.m.</td>
</tr>
<tr>
<td>City Council Meeting to approve the draft timeline for Citizen Participation Calendar of Events for 2003-2004 HUD Annual Action Plan and Public Service Grants; Tenth Street Place, Council Chambers</td>
<td>Feb. 4, 2003</td>
<td>5:30 p.m.</td>
</tr>
<tr>
<td>Application Period for Public Service Grants opens</td>
<td>Feb. 5, 2003</td>
<td>8:00 a.m.</td>
</tr>
<tr>
<td>Staff Technical Assistance Workshop for ESG Public Service Grants, Tenth Street Place, Room 2005</td>
<td>Feb. 11, 2003</td>
<td>9:00 a.m.</td>
</tr>
<tr>
<td>Staff Technical Assistance Workshop for CDBG Public Service Grants, Tenth Street Place, Room 2005</td>
<td>Feb. 12, 2003</td>
<td>9:00 a.m.</td>
</tr>
<tr>
<td>Application Deadline for Funding Requests of Public Service Grants</td>
<td>Feb. 28, 2003</td>
<td>5:00 p.m.</td>
</tr>
<tr>
<td>Analysis of Public Service Funding Requests by Staff and Review Committee</td>
<td>Feb. 28-Mar. 12, 2003</td>
<td></td>
</tr>
<tr>
<td>Community meetings to obtain input on Annual Action Plan projects/activities: Tenth Street Place, Airport Neighbor’s United, Chrysler School, King-Kennedy Center</td>
<td>March 19, 20, 25, 26, 2003</td>
<td>6:00 p.m.</td>
</tr>
<tr>
<td>CH and CDC Meeting and Public Hearing to Consider Requests for funding of Public Service Applications; Tenth Street Place, Room 2001</td>
<td>March 21, 2003</td>
<td>12:00 p.m.</td>
</tr>
<tr>
<td>City Council Meeting to Consider and Approve Funding Recommendations for Public Service Applications; Tenth Street Place, Council Chambers</td>
<td>April 8, 2003</td>
<td>5:30 p.m.</td>
</tr>
<tr>
<td>CH and CDC Meeting to Consider final draft of 2003-2004 Annual Action Plan; Tenth Street Place, Room 4001</td>
<td>April 25, 2003</td>
<td>12:00 p.m.</td>
</tr>
<tr>
<td>City Council public hearing to consider and approve recommendations for the 2003-2004 Annual Action Plan for; Tenth Street Place, Council Chambers</td>
<td>May 13, 2003</td>
<td>5:30 p.m.</td>
</tr>
</tbody>
</table>
A RESOLUTION APPROVING AN INITIAL APPLICATION TO THE HOUSING AND URBAN DEVELOPMENT DEPARTMENT (HUD) FOR A $4.5 MILLION SECTION 108 LOAN GUARANTEE TO FINANCE THE CONSTRUCTION OF THE NEIGHBORHOOD CENTER AT MARSHALL PARK AND THE RENOVATION AND EXPANSION OF MADDUX YOUTH CENTER, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE INITIAL APPLICATION.

WHEREAS, the Section 108 Loan Guarantee is a loan guarantee from Federal Housing and Urban Development Department (HUD) that allows an entitlement recipient to borrow up to five times the amount of their annual entitlement to fund Community Development Block Grant (CDBG) activities, and

WHEREAS, the City would borrow against a $4.5 million Section 108 Loan Guarantee, of which $3.1 million is for the construction of a joint service facility in Marshall Park, which would house a fire station, a police sub-station and a recreation office/ facility, and $1.4 million is for the renovation and expansion of the Maddux Youth Center, and

WHEREAS, the total cost of the two projects would be $5.6 million, and

WHEREAS, the loan guarantee can be used for any CDBG eligible activity, and these two proposed projects are both located in the low-income census tracts and will benefit low- and moderate-income persons, and

WHEREAS, the City would pay quarterly interest due on the amount borrowed, with the interest rate on the interim financing being adjustable, and based on the London Interbank Offered Rate (LIBOR) plus a mark up of 20 basis points, and

WHEREAS, the maximum term is 20 years, and loans cannot be prepaid during the first ten years of the amortization period; principal is paid once a year and the interest is due on August 1 and February 1, and

WHEREAS, the City of Modesto is proposing a 20-year amortization period on the permanent financing, and
WHEREAS, HUD requires that the City use its future CDBG entitlement as collateral, as well as other collateral which in the City's situation would be Marshall Park, Cesar Chavez Park (the location of the Maddux Youth Center), the buildings and all improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an initial application to be submitted to the Federal Housing and Urban Development Department (HUD) for a $4.5 million Section 108 Loan Guarantee to finance the construction of the Neighborhood Center at Marshall Park and the renovation and expansion of Maddux Youth Center, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

Attest:  
JEAN AHR, City Clerk

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney
1. **Project Description**

The City of Modesto is requesting $4.5 million in Section 108 Loan Guarantee funds to finance 1) $3.1 million for the construction of the Neighborhood Center at Marshall Park, a joint service facility for police, fire and recreational services, and 2) $1.4 million for the renovation expansion of the Maddux Youth Center. These projects will provide safety services, as well as family and youth services to a low-income area located in the western sector of Modesto.

2. **Sources of Funding and Uses**

### Neighborhood Center at Marshall Park

<table>
<thead>
<tr>
<th>Costs</th>
<th>Financing Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design</td>
<td>$ 206,000</td>
</tr>
<tr>
<td>Design Administration</td>
<td>199,200</td>
</tr>
<tr>
<td>Construction</td>
<td>2,490,000</td>
</tr>
<tr>
<td>Construction Admin</td>
<td>249,000</td>
</tr>
<tr>
<td>Contingency</td>
<td>178,100</td>
</tr>
<tr>
<td>Furn, Fixtures, &amp; Equip</td>
<td>-</td>
</tr>
<tr>
<td>Financing Costs</td>
<td>22,200</td>
</tr>
</tbody>
</table>

|                                                                                       |
|                                                                                       |
| $ 3,344,500                                                                            |

### Maddux Youth Center

<table>
<thead>
<tr>
<th>Costs</th>
<th>Financing Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design</td>
<td>$ 142,000</td>
</tr>
<tr>
<td>Design Administration</td>
<td>78,000</td>
</tr>
<tr>
<td>Construction</td>
<td>1,600,000</td>
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<tr>
<td>Construction Admin</td>
<td>120,000</td>
</tr>
<tr>
<td>Contingency</td>
<td>250,000</td>
</tr>
<tr>
<td>Furn, Fixtures, &amp; Equip</td>
<td>100,000</td>
</tr>
<tr>
<td>Financing Costs</td>
<td>7,800</td>
</tr>
</tbody>
</table>

|                                                                                       |
|                                                                                       |
| $ 2,297,800                                                                            |

**Total Construction Costs:** $ 5,642,300  **Total Section 108 Loan Guarantee:** $ 4,500,000
3. **Project Structure and Participants**

Both existing park sites are owned by the City and any improvements and construction in the park will be owned by the City. The Marshall Park land and improvements is currently valued by the City at $2.9 million and the Cesar Chavez parkland and improvements, including the current Maddux Youth Center, has a value of $6.2 million. The estimated value after completion of the two projects is over $14 million. If the Section 108 Loan Guarantee is approved, the funds will be used for the construction and as permanent financing.

a. Neighborhood Center at Marshall Park

The joint service facility will provide citizens the opportunity to interact with City employees in their own neighborhood. They will be able to meet with police and fire staff, conduct city business such as paying water or sewer bill, enroll a child in a recreation program, or just ask questions concerning City programs and policies. This facility will be built in the open space in one of the City’s existing parks, Marshall Park, located at Sutter and Chicago Avenues.

The existing fire station located in the area was built in 1923 and is outdated and there is no room for expansion. The community police sub-station is in an existing strip mall and could easily be combined with the fire staff. The new facility would be an 8,500 square foot fire station with three truck bays and a 4,075 square foot police and recreation area. There would be an office that would staff personnel from all three departments, as well as a fitness room, community meeting room, restroom, and a small kitchenette.

Since March, WLC Architects has been working on the schematic design, preparation of design development documents, plans, specifications and the cost estimate for the new joint use facility. WLC has been meeting with staff and community groups to insure that the design is the best fit for the community, the needs of City staff, and for the existing appearance of the park. Upon completion of the design documents, a Request for Proposal process will be used for the selection of a contractor to build the new joint facility. This should be accomplished by August 2003. Construction could begin in October 2003 and completion twelve months later.

b. Maddux Youth Center

The Maddux Youth Center was built in 1952 and is located in the existing Cesar Chavez Park. The center houses a gym, a weight room, and offices for staff. This building is in need of renovation and expansion to meet the needs of today’s youth.

A 2,500 square foot addition to the south side of the building would be utilized for a computer lab, additional restrooms, and a multi-purpose room. A 3,500 square foot addition to the northeast side of the building would accommodate the activities of the Police Activities League (PAL) youth boxing program. Renovation to the existing
9,451 square foot structure would include a new roof with skylights, a new air handling system, replacement of interior and exterior doors, enclosure of existing windows, and abatement of the asbestos in the flooring, and installation of new flooring in the facility, excluding the gym.

RRM Design Group has been working on the design development and construction documents since August 2001. RRM has hosted two public meetings on the design to facilitate community input. Following the final design, the City will seek Request for Proposals for the construction of the project. It is estimated that the contractor will be selected by August 2003, with construction to begin in February 2004 and completion twelve months later.

4. Repayment Schedule

The estimated payment plan is as follows: (calculated at 2% for the interim financing in years 2003 and 2004, calculated at 5% for the amortized 20-year loan).

Total Payment is approximately $361,000 per year (adjusted for requirement that payments be rounded to nearest thousand for principal amount).

<table>
<thead>
<tr>
<th>Payment Date</th>
<th>Beginning Balance</th>
<th>Interest</th>
<th>Principal</th>
<th>Ending Balance</th>
<th>Annual Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>4,000,000</td>
<td>80,000</td>
<td>0</td>
<td>4,000,000</td>
<td>80,000</td>
</tr>
<tr>
<td>2005</td>
<td>4,500,000</td>
<td>225,000</td>
<td>136,000</td>
<td>4,364,000</td>
<td>361,000</td>
</tr>
<tr>
<td>2006</td>
<td>4,364,000</td>
<td>218,200</td>
<td>143,000</td>
<td>4,221,000</td>
<td>361,200</td>
</tr>
<tr>
<td>2007</td>
<td>4,221,000</td>
<td>211,050</td>
<td>150,000</td>
<td>4,071,000</td>
<td>361,050</td>
</tr>
<tr>
<td>2008</td>
<td>4,071,000</td>
<td>203,550</td>
<td>158,000</td>
<td>3,913,000</td>
<td>361,550</td>
</tr>
<tr>
<td>2009</td>
<td>3,913,000</td>
<td>195,650</td>
<td>165,000</td>
<td>3,748,000</td>
<td>360,650</td>
</tr>
<tr>
<td>2010</td>
<td>3,748,000</td>
<td>187,400</td>
<td>174,000</td>
<td>3,574,000</td>
<td>361,400</td>
</tr>
<tr>
<td>2011</td>
<td>3,574,000</td>
<td>178,700</td>
<td>182,000</td>
<td>3,392,000</td>
<td>360,700</td>
</tr>
<tr>
<td>2012</td>
<td>3,392,000</td>
<td>169,600</td>
<td>192,000</td>
<td>3,200,000</td>
<td>361,600</td>
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<tr>
<td>2013</td>
<td>3,200,000</td>
<td>160,000</td>
<td>201,000</td>
<td>2,999,000</td>
<td>361,000</td>
</tr>
<tr>
<td>2014</td>
<td>2,999,000</td>
<td>149,950</td>
<td>211,000</td>
<td>2,788,000</td>
<td>360,950</td>
</tr>
<tr>
<td>2015</td>
<td>2,788,000</td>
<td>139,400</td>
<td>222,000</td>
<td>2,566,000</td>
<td>361,400</td>
</tr>
<tr>
<td>2016</td>
<td>2,566,000</td>
<td>128,300</td>
<td>233,000</td>
<td>2,333,000</td>
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</tr>
<tr>
<td>2017</td>
<td>2,333,000</td>
<td>116,650</td>
<td>244,000</td>
<td>2,089,000</td>
<td>360,650</td>
</tr>
<tr>
<td>2018</td>
<td>2,089,000</td>
<td>104,450</td>
<td>257,000</td>
<td>1,832,000</td>
<td>361,450</td>
</tr>
<tr>
<td>2019</td>
<td>1,832,000</td>
<td>91,600</td>
<td>269,000</td>
<td>1,563,000</td>
<td>360,600</td>
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<tr>
<td>2020</td>
<td>1,563,000</td>
<td>78,150</td>
<td>283,000</td>
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<tr>
<td>2021</td>
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<td>64,000</td>
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<td>983,000</td>
<td>361,000</td>
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<td>2022</td>
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<td>312,000</td>
<td>671,000</td>
<td>361,150</td>
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<tr>
<td>2023</td>
<td>671,000</td>
<td>33,550</td>
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<td>343,000</td>
<td>361,550</td>
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<tr>
<td>2024</td>
<td>343,000</td>
<td>17,150</td>
<td>343,000</td>
<td>0</td>
<td>360,150</td>
</tr>
<tr>
<td><strong>Total Paid</strong></td>
<td><strong>$2,701,500</strong></td>
<td></td>
<td></td>
<td><strong>$4,500.00</strong></td>
<td></td>
</tr>
</tbody>
</table>
5. **Collateral**

The City of Modesto proposes to pay the Section 108 Loan Guarantee with funds from the annual CDBG entitlement. The City will also pledge the parks and the two buildings, the proposed Neighborhood Center at Marshall Park and the improved Maddux Youth Center, as collateral for the loan. A Deed of Trust in favor of HUD will be recorded against the land and buildings.

6. **Time Tables and Stages**

The construction for both projects should begin by late 2003 or early 2004 and be completed by the end of 2004. During the construction phase, initial advances will be taken from the Section 108 Loan Guarantee to pay the construction costs. Interest due on the initial advances will be paid through the adjustable rate interim financing. It is hoped that the project will be almost fully funded at the time of the annual public offering in 2004, if the public offering is in the later half of the year. The City will participate in the public offering and convert the existing Section 108 Loan Guarantee into fixed rate financing for a 20-year term.

7. **Eligible Activity**

a. **Neighborhood Center at Marshall Park**

The project is eligible under 24 CFR 570.201(c), Construction of Public Facilities. The facility will be a city-owned, neighborhood-based, multi-department service center, consisting of a fire station, police station, and recreation office, with the specific intent to serve a limited service area on the west side of Modesto.

b. **Maddux Youth Center**

The project is eligible under 24 CFR 570.201(c), Construction and Rehabilitation of Public Facilities. The existing Maddux Youth Center is a city-owned, neighborhood-based, youth recreation center. This project will substantially rehabilitate and renovate the youth center.

8. **National Objective**

a. **Neighborhood Center at Marshall Park**

The project will meet a national objective under 24 CFR 570.208(a)(1)(I), Activities benefiting low- and moderate-income persons, area benefit activities. At least 51% of the residents who reside in the service areas of the neighborhood fire/police/recreation office are low/moderate income persons.
b. Maddux Youth Center

The project will meet a national objective under 24 CFR 570.208(a)(1)(I), Activities benefiting low- and moderate-income persons, area benefit activities. At least 51% of the residents who reside in the service area of the recreation center are low-moderate income.

9. Public Benefit Standards

a. Neighborhood Center at Marshall Park

- The total amount of CDBG funds (e.g. Section 108 funds and any other CDBG-related funds) to be used in the project: $3,344,500
- The total number of low- and moderate-income persons living within the project’s service area:
  - Fire Department Service Area: 11,010 low/moderate-income persons out of a total population of 17,904 persons
  - Police Department Service Area: 12,653 low/moderate-income persons out of a total population of 23,079 persons
  - Recreation Department Service Area: 12,653 low/moderate-income persons out of a total population of 23,079 persons

b. Maddux Youth Center

- The total amount of CDBG funds (e.g. Section 108 Loan Guarantee funds and other CDBG-related funds) to be used in the project: $1,623,800.
- The total number of low- and moderate-income persons living within the proposed project service area: 13,922 low/moderate-income persons out of a total population of 25,025 persons.

10. Whom May We Contact

Julie Hannon  
Deputy Director, Parks, Recreation and Neighborhoods  
City of Modesto  
PO Box 642, Modesto, 95353  
1010 Tenth Street, Suite 4300, 95354  
jhannon@modestogov.com  
(209) 577-5417

or Cheryl Davis,  
Housing Financial Specialist, Parks, Recreation and Neighborhoods  
cheryld@modestogov.com  
(209) 577-5311
A RESOLUTION AUTHORIZING THE MODESTO CITY FIRE DEPARTMENT TO PARTICIPATE IN AN ADVANCED LIFE SUPPORT (ALS) ENGINE PILOT PROGRAM, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY CONTRACTS AND AGREEMENTS.

WHEREAS, on June 25, 2002, the City Council approved funding for the development of a Modesto Fire Department – Advanced Life Support (ALS) Pilot Program, and

WHEREAS, the development of the program and labor agreements are completed, and

WHEREAS, the training and licensing of the Fire Department ALS pilot personnel will be completed in February, 2003, and

WHEREAS, implementation of the program requires contractual agreements between the City of Modesto and Mountain-Valley Emergency Medical Services Agency, the governing Emergency Medical Services Authority for the County of Stanislaus, and

WHEREAS, on October 1, 2000, the Safety and Communities Committee approved “in-concept” the Pilot Advanced Life Support first responder program within the Modesto Fire Department, and

WHEREAS, on October 2, 2002, the Safety and Communities Committee received an update on the progress of the ALS pilot program to date,
NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that the Fire Department is hereby authorized to implement an Advanced Life Support Engine Pilot Program on or about the 1st day of March, 2003.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the City's acceptance of all contracts, agreements and documents necessary regarding the aforementioned program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Council member Fisher, who moved its adoption, which motion being duly seconded by Council member Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino
NOES: Council members: None
ABSENT: Council members: Conrad

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

02/04/03/Fire/T Brennan
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-71

A RESOLUTION GRANTING AN APPEAL OF THE CURRENT APPLICATION OF CAPITAL FACILITIES FEE (CFF) EXEMPTIONS FOR BUILDINGS DEMOLISHED AT 339 PARADISE ROAD, AND PROVIDING A CFF CREDIT EXEMPTION FOR BUILDINGS DEMOLISHED AT 339 PARADISE ROAD, 1333 N. CARPENTER ROAD, 801 OAKDALE ROAD, AND 2020 W. BRIGGSMORE AVENUE.

WHEREAS, an appeal was requested to grant the application of a CFF credit for buildings demolished at 339 Paradise Road, and

WHEREAS, City staff is aware of additional properties located at 1333 N. Carpenter Road, 801 Oakdale Road, and 2020 W. Briggsmore Avenue, where buildings were previously demolished, and the property owners have relied on an expectation that they will receive a CFF credit for the demolished buildings, and

WHEREAS, the City's past policies granted a CFF credit for reconstructed buildings on sites that demolished the existing buildings, and

WHEREAS, the developers of the four projects at the locations stated above have relied on the past policy of granting-receiving CFF credits for reconstructed buildings on sites that demolished the existing buildings, in determining the feasibility of their projects, and

WHEREAS, the Economic Development Committee met on January 13, 2003, and recommended that the appeal be granted, and that CFF credits be provided for buildings demolished at 339 Paradise Road, 1333 N. Carpenter Road, 801 Oakdale Road, and 2020 W. Briggsmore Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of the current application for a CFF credit for buildings demolished at 339 Paradise Road, 1333 N. Carpenter Road, 801 Oakdale Road, and 2020 W. Briggsmore Avenue is hereby granted.

BE IT FURTHER RESOLVED that staff be directed to allow an exception to the current application of CFF exemptions for the projects listed above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST:  

APPROVED AS TO FORM:  

BY:  

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-71A

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PRINTING OF THE
MONTHLY UTILITY BILL INSERT, FOR A THREE (3) YEAR AGREEMENT
WITH TWO (2) ONE-YEAR EXTENSION OPTIONS.

WHEREAS, the City of Modesto has provided the citizen's of Modesto a utility
bill insert with the monthly billing statement since 1987, and

WHEREAS, the utility bill insert provides the City an economical means of
reaching all households and businesses with important City information, and

WHEREAS, the utility bill insert has proven to be a most cost effective means of
keeping the public informed about the City, resulting in improved customer
understanding of City issues, and

WHEREAS, the anticipated annual cost for the ongoing monthly printing of the
utility bill insert is approximately $38,520.00, and

WHEREAS, Modesto Municipal Code, Section MMC 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, by soliciting competitive bids for the monthly printing of the utility
bill insert the Finance Department Purchasing Division will comply with Modesto City
Code Section MMC 8-3.203 regarding formal bid procedures.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City
of Modesto as follows:
SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the monthly printing of the utility bill insert, for a three (3) year agreement with two (2) one-year extension options, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids 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 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-72

A RESOLUTION APPROVING AN AMENDED AIRCRAFT T-HANGAR AND TIE-DOWN LEASE AGREEMENT AT THE MODESTO CITY-COUNTY AIRPORT, REVISING THE AMOUNT A TENANT WOULD PAY FOR AN AIRCRAFT HANGAR AT THE TIME THE LEASE BECOMES EFFECTIVE, AND CHANGING THE NUMBER OF DAYS NOTICE EITHER THE CITY OR LESSEE WOULD BE REQUIRED TO GIVE BEFORE LEASE TERMINATION

WHEREAS, the City of Modesto leases small aircraft storage hangars at Modesto City-County Airport, and

WHEREAS, the City occasionally has a vacancy that requires a unit be rented to a different individual, and

WHEREAS, previous tenants often do not provide adequate notice of termination of their leases, causing a delay in renting the hangar to a new tenant, resulting in lost revenue for the City, and

WHEREAS, the Airport Advisory Committee requested public input at their meeting on November 20, 2002, and received no comments, and voted to support changing the Airport’s Aircraft T-Hangar and Tie-down Lease Agreement to add a requirement of payment of first and last months’ rent at the time a lease is entered, and a 30-day notice of termination in order to eliminate the loss of revenue, and

WHEREAS, the Council’s Economic Development Committee considered the airport’s amended lease agreement at their January 13, 2003, meeting, and recommended approval of the amended lease agreement,
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the City's Amended Aircraft T-Hangar and Tie-down Lease Agreement with the recommended changes, as shown in Exhibit A attached.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February 2003, by Councilmember Fisher who moved for its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote.

AYES: Councilmember: Conrad, Fisher, Frohman, Jackman, Keating O'Bryant, Mayor Sabatino

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by: Michael D. Milich, City Attorney
This Lease Agreement, made and entered into in the City of Modesto, County of Stanislaus, State of California, as of this ___ day of the Month of _________, 20___, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called CITY, and ________________ hereinafter called LESSEE.

W I T N E S S E T H:

That for and in consideration of the covenants, conditions, agreements, and stipulations hereinafter expressed, CITY does hereby demise and lease unto LESSEE, and LESSEE hereby hires from CITY, those certain premises situated at the Modesto City-County Airport in the City of Modesto, County of Stanislaus, State of California, known as «PropertyName», on a month-to-month tenancy commencing on the ___ day of the Month of _________ 20___, at the rate established from time to time by Resolution of the City Council payable monthly in advance commencing on the ___ day of Month of _________, 20___, to the City of Modesto, and mail in c/o Modesto City-County Airport, 617 Airport Way, Modesto, California 95354. In addition, for the right to lease a City owned hangar the LESSEE agrees to pay an additional month’s rent, which the CITY agrees to use for rent charges assessed at the time notice of termination when given by either party to the lease.

In addition thereto the parties hereby mutually agree as follows:

1. **USE:** That said premises shall not be used by the LESSEE during the term of this lease for other than storage of aircraft purposes except with the written consent of the CITY.

2. **REGULATIONS:** LESSEE acknowledges receipt of a copy of the Modesto Municipal Code Airport Regulations and agrees to abide by the Code as written. A copy of the regulations herein referred to is attached hereto, marked Exhibit "A" and made a part hereof as though set forth in full herein.

3. **ASSIGNMENT:** LESSEE shall not assign this lease nor any right hereunder, nor sublet the premises, nor any part thereof, nor suffer any other person to occupy or use the said premises or any portion thereof. In the event of a breach of this condition, CITY shall have the power to immediately declare this lease agreement terminated and will thereupon be entitled to take immediate possession of the premises.

4. **INSURANCE:** CITY will keep the premises insured against fire and other insurable risks covered within its blanket policy, provided, however, that LESSEE waives the right to claim damages from CITY for any damage resulting to any personal property in or upon the premises in the event damage results from fire or any other cause. LESSEE agrees to provide insurance
in the amounts set forth in Sections 7-3.108 and 7-3.108.1 of the Modesto Municipal Code, and to file a certificate evidencing such coverage in the Office of the City Clerk of the City of Modesto. Should the LESSEE fail to provide the City with an insurance certificate as required by sections 7-3.108 and 7-3.108.1 of the Modesto Municipal Code, the Airport Manager will have the right to padlock the aircraft until a current insurance certificate is provided to the City as evidence of insurance coverage naming the City of Modesto as additional insured.

5. **INDEMNIFICATION:** LESSEE agrees to indemnify and hold CITY harmless from and against all liabilities or injuries to persons or damage to property caused by LESSEE’S use of, occupancy of, or operation of the demised premises, unless caused by negligence on the part of the City.

6. **RIGHT OF ENTRY UPON PREMISES:** CITY and its agents and employees shall have the right to enter upon said premises at all reasonable times to inspect the same to determine if LESSEE is performing the covenants of this lease on his part to be performed and to post such reasonable notices as CITY may desire to protect its rights.

7. **DEFAULT:** If LESSEE makes default in the performance of any of the covenants here of, CITY at any time thereafter, without notice or demand, may lawfully declare said term ended and re-enter the said premises with or without process of law. The waiver of any breach of any covenant by CITY herein shall not constitute a waiver of any other breach regardless of CITY’S knowledge thereof.

8. **TERMINATION:** It is agreed between the parties hereto that this lease may be terminated by either party hereto upon giving ten (10) thirty (30) days written notice to the other party. The Airport Manager is authorized to terminate this lease on behalf of the CITY.

9. **FAILURE TO VACATE:** LESSEE agrees to vacate said premises within thirty (30) days after receipt of notice to do so from CITY, and failing to vacate as herein provided, agrees that CITY, or its authorized agents, may enter upon said property and remove all personal property therefrom and in this event, LESSEE agrees to pay reasonable charges if CITY is required to remove personal property, and waives any and all claims for damages against CITY, its agents or employees. Nothing herein shall be deemed a waiver of any rights of CITY to demand and obtain possession of said premises in accordance with law in the event of a violation of LESSEE’S part of any of the terms or conditions hereof.

10. **COMMERCIAL OPERATIONS:** LESSEE acknowledges that a permit must be granted by the Modesto City Council as a prerequisite to LESSEE’S conducting commercial operations out of the leased premises, and that without such permit, aircraft stored upon the leased premises shall not be leased or hired by LESSEE by any person or entities for compensation.
11. **TIME OF ESSENCE, BINDING UPON HEIRS, ETC.:** Time is of the essence of each and all the terms and provisions of this lease, and the terms and provisions of this lease shall extend to and be binding upon and insure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

12. **POSSSESSIONY INTEREST:** LESSEE recognizes and understands that this lease may create a possessory interest subject to property taxation and that the LESSEE may be subject to the payment of property taxes levied on such interest.

   IN WITNESS THEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this lease agreement in duplicate by its Airport Manager under authority of Resolution No. 70-205, adopted by the Council of the City of Modesto on the _____day of the Month of ____________, 20___ and LESSEE has caused this lease agreement to be executed.

---

«LesseeName»
«LesseeAddress»
«LesseeCityState»
«PlaneNumber»

CITY OF MODESTO, a municipal corporation

By: ______________________________
    Jack R. Crist, City Manager

By: ______________________________
    Lessee
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-73

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS IN THE OLYMPIC PARK NO. 4 SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH WARREN SMITH LAWSON FAMILY, INC., A CALIFORNIA CORPORATION

WHEREAS, WARREN SMITH LAWSON FAMILY, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 10.08 acres, known as the OLYMPIC PARK NO. 4 ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 2nd day of October, 2000, and

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

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

WHEREAS, the Engineering and Transportation Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Engineering and Transportation Director,

WHEREAS, the subdivider has posted a warranty security in an amount equal to the estimated cost of the public improvements, as determined by the City Engineer, to guarantee and warranty the public improvements for a period of one year after acceptance, and

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

1. The final map is hereby approved.
2. The dedications for streets, alleys and easements as shown thereon within the boundaries of said tract are hereby accepted on behalf of the public for public use.

3. The improvements completed in Olympic Park No. 4 Subdivision are hereby accepted.

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

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

6. The City Clerk is further authorized to release the warranty security to guarantee improvements in the amount of $41,000.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-74

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING PUBLIC IMPROVEMENTS IN THE OLYMPIC PARK NO. 5 SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH WARREN SMITH LAWSON FAMILY, INC., A CALIFORNIA CORPORATION

WHEREAS, WARREN SMITH LAWSON FAMILY, INC., a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 3.08 acres, known as the OLYMPIC PARK NO. 5 ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 25th day of February, 2002, and

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

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

WHEREAS, the Engineering and Transportation Director has certified that all public improvements required by the City of Modesto have been completed in said tract to the satisfaction of the Engineering and Transportation Director,

WHEREAS, the subdivider has posted a warranty security in an amount equal to the estimated cost of the public improvements, as determined by the City Engineer, to guarantee and warranty the public improvements for a period of one year after acceptance, and

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

1. The final map is hereby approved.
2. The dedications for streets, alleys and easements as shown thereon within the boundaries of said tract are hereby accepted on behalf of the public for public use.
3. The improvements completed in Olympic Park No. 5 Subdivision are hereby accepted.
4. The City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto, and to file a Notice of Completion on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
A RESOLUTION AMENDING THE POLICIES AND PROCEDURES FOR ACCESSMODESTO

WHEREAS, on the 26th day of November, 2002, by Resolution No. 2002-590, the City Council established Policies and Procedures for the operation of AccessModesto, and

WHEREAS the City Council now desires to amend the Policies and Procedures, and

WHEREAS, the City Council has determined broadcasting hours of programming containing indecent material shall be restricted to the hours between 1:00 a.m.-4:00 a.m., and

WHEREAS, the City Council has determined that amended Indemnification and new public content surveys are required, and

WHEREAS, the City Council has determined the number of playbacks on the Public Access channel are limited to two (2) per week with a maximum cap of three (3), depending on availability, and

WHEREAS, the City Council has determined the City retains the right to preempt any programming for all City-related news conferences, and

WHEREAS, Exhibit A, attached hereto, contains the violation and appeal process and amended Policies and Procedures as determined by City Council, and

WHEREAS, the City Council has determined to appoint members to the Local Cable Programming Committee and consider said appointees as Board of Director members upon establishment of 501 (c)(3), and

WHEREAS, the City Council has determined the Local Cable Programming Committee shall hear appeals and apply penalties, as approved and determined by Council, to said violators of the Policy and Procedures, and
WHEREAS, City Council has determined Channel 27 is hereby revised to broadcast Public Access and Education programming with a priority on Educational programming, and

WHEREAS, the amendments to the Policies and Procedures have been reviewed and recommended for approval by the Safety and Communities Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendments to the AccessModesto Policy and Procedures, a copy of which is attached hereto as Exhibit “A”.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
Operating Policies
& Procedures
I. INTRODUCTION

The City of Modesto regulates the local cable television franchise agreement, which allows the cable company to use public rights of way for their cables and wiring. Within this franchise agreement, provisions are made for Public-Education-Government (PEG) access channels.

These Operating Policies and Procedures set out the rules that govern the operation of the City of Modesto Master Control Room and AccessModesto Community TV (AMCTV) channels.

These Operating Policies and Procedures will evolve with the growth and development of AccessModesto Community TV, and the experiences of those who use the channels and Master Control Room facility. AccessModesto Community TV reserves the right to modify this document at any time.

A. PEG

In the City of Modesto, Channels 2, 8 and 27 on the AT&T Broadband cable system have been set aside for use by members of the public, community organizations, educational institutions, and governmental agencies as the city's community access channels. AccessModesto Community TV aims to be the nexus that provides the public with the facilities and equipment needed to produce television programs to be shown over these local community channels.

B. Public Access

Public Access means TV for you, by you, and about you. This is television made by you free of censorship (to the extent allowed by law) and free of commercials. Public access allows for varying degrees of an individual's participation. One can participate in Public Access easily by bringing in a previously taped show or by putting a message on the Video Bulletin Board. Future plans include a more hands on approach that will allow citizens to
participate in production workshops, check out equipment, and produce their own television shows.

C. Education & Government Access

The channels are also used to deliver programming produced by educational institutions, as well as agencies of local and state government. This programming is referred to as education and government access and includes coverage of City Council and County Board of Supervisor meetings, information on City and County services, credit and noncredit courses delivered to the home, and special events. Section VI describes how AccessModesto Community TV will schedule this mix of programs in a way that ensures a good balance of programs.

D. Contact Information

The City of Modesto Communications & Marketing Division manages the city’s AccessModesto Community TV program with assistance from the city’s Local Cable Citizen Advisory Committee. Future plans are to implement an independent, nonprofit corporation to oversee the policies and procedures of AccessModesto Community TV, to enhance the diversity of thought, culture, and heritage within the City of Modesto and Stanislaus County, and to be a communication resource among all the communities in Stanislaus County.

AccessModesto Community TV
Communications & Marketing Division: (209) 577-5463
Master Control Room (209) 525-5104
Scheduling/Programming
Master Control Room Fax (209) 525-5113
Video Bulletin Board Announcements
http://www.modesto.tv
e-mail: info@modesto.tv
E. Drop-off

Video tapes prepared for airing on the AccessModesto Community TV channels may be:

- Dropped off at the City Manager’s Office, 1010 Tenth Street, Suite 6100, Modesto, California between the hours of Monday through Friday, 8 am – 5 pm.
- Mailed to AccessModesto Community TV, P.O. Box 642, Modesto, CA 95353, or
- Placed in the drop-box located at the Stanislaus County Office of Education South Door.

A presenter must submit a signed Content Program Survey form with each program. Since a tape must be entered into the AccessModesto Community TV tape database, labeled, and scheduled, an airdate cannot be given at the time of submission. Airdates will be available approximately three business days after a tape has been submitted. Producers submitting episodes of an approved series must deliver the tape and Program Content Survey to AccessModesto Community TV at least seven days prior to their time slot to allow for scheduling, unless other arrangements are agreed upon with the Programming Manager.
Our Purpose

Assisting residents and organizations to communicate ideas and exchange information through the medium of community access television.

To accomplish this, we will work toward the following goals:

- Advocate the use and benefits of community access television
- Encourage the cablecasting of non-commercial programs directly related to the community of Modesto and/or Stanislaus County
- Encourage the creation of programs aimed at preserving, developing, and enhancing the diversity of thought, culture, and heritage within Modesto and/or Stanislaus County
- Facilitate lifelong learning and community participation in the democratic process
- Serve as a local information exchange
- Develop cooperative partnerships with Public, Education, and Government individuals and groups to help further the goals of community access
- Monitor and incorporate, to the extent funding is available, the use of emerging technologies that will benefit community access users
- Maintain those cable channels dedicated to public use in a manner that is free of censorship and control of program content, except as necessary to comply with State or Federal law
- Attempt to provide equitable access to community channels by developing and utilizing rules and policies

AccessModesto Community TV programming is broadcast on Channels 2, 8, and 27 on the AT&T Broadband cable system and is available to all AT&T cable residents in the City of Modesto as part of their basic cable television service.
I. MASTER CONTROL ROOM FACILITY

The City of Modesto Master Control Room is located in the basement of the Stanislaus County Office of Education, 1100 H Street, Modesto, California 95354.

Currently, the AccessModesto Community TV does not offer production/studio facilities for public access. It is the intent of the City of Modesto to determine the feasibility of providing a Public Access studio. Until then, each producer is responsible for identifying a location for the production of his or her program.

Additionally, producers are fully responsible for signing and obtaining all necessary forms and releases involved in their production. This includes talent releases and music rights. The City of Modesto and AccessModesto Community TV have no legal liability for clearances that have not been obtained.

Regular Hours of Operation

A. Monday through Friday 10 am – 7 pm for Master Control Room Operation
B. Monday through Saturday as needed for Education/Government programming
C. Saturday and Sunday – Open only for Master Control Room Operation

Technical staff is available on-call 24 hours per day and 365 days per year to oversee the use of the facility and provide technical management as needed. The facility staff will answer any technical questions regarding the equipment. However, it is not the responsibility of staff to serve as crew on any community productions.
II. PRODUCERS' RESPONSIBILITIES

1. Application Forms

Forms must be completed for each show that is produced for AccessModesto Community TV. The forms provide details about the production and serves as a working production tool for both the producer and Master Control Room staff.

   a. Application for Access Channel Cablecast
   b. Statement of Compliance
   c. Indemnification
   d. Duplication Process Policy
   e. Program/Technical Requirements
   f. Program Content Survey

2. Tape Duplication

AccessModesto Community TV recommends that access producers keep possession of their SVHS edit master and submit a good quality SVHS dub for cablecasting which AccessModesto Community TV will keep. The AccessModesto Community TV is not responsible for damage to the air tape, under the Statement of Compliance form, which is completed for cablecasting.

3. Dubbing Charges

If producers wish to retain their edit master, they may request that one SVHS tape be dubbed in the Master Control Room to submit for cablecasting at no charge. Producers may also request one VHS tape be dubbed of their public access program in the Master Control Room at no charge. Producers must provide tape stock. Staff will duplicate tapes based on the availability of the equipment. Dubs for cablecasting have
priority over VHS dubs. Additional dubs will be copied by staff for a fee of $10 per tape including the cost of the tape stock.

III. SERVICES PROVIDED

A. Video Bulletin Board

A separate bulletin board appears on each of the Public Access-Education-Government channels in between taped or live programming.

Eligible users may submit messages and announcements to the Video Bulletin Board. Eligible users include bona fide nonprofit agencies, educational, and governmental organizations.

Public Access producers may submit a brief description of their own program with air times for display on the Public Access Bulletin Board.

Messages may be typed or printed on an AccessModesto Community TV Bulletin Board Form. Messages may be no longer than 100 words, however press release of approximately the same length will be accepted. The information should be submitted 10 days in advance of requested airdate. Cost: Free. Pick up a Bulletin Board Form in the City of Modesto City Manager's Office, online at www.modesto.tv or request one be faxed or mailed to you by calling 525-5104.
IV. PROGRAMMING GUIDELINES

A. Program Content Policy

AccessModesto Community TV has designed its policies and facility to encourage the broadest possible usage of the cable television community channels, to celebrate the diversity of the community, and to strengthen the sense of community in the City of Modesto and Stanislaus County. AccessModesto Community TV is committed to being the vehicle for non-commercial programming made by individuals and groups in the City of Modesto. As such, it is the producer or presenter of the program who accepts responsibility for the content, not AccessModesto Community TV. AccessModesto Community TV will exercise no control over program content, except that legally, community access programming must not contain:

1. Obscene or indecent matter as defined by the First Amendment to the U.S. Constitution and any applicable case law in the 1992 FCC guidelines.
2. Materials that contain other speech not protected by the Constitution: i.e., speech, which directly results in violence, ‘fighting words,’ and incitement to riot.
3. The direct or indirect presentation of lottery or other information as prohibited by State Law.
4. Political endorsements outside of politically sanctioned debates and/or political advertising material.
5. Advertising material that promotes the sale of commercial products or services or motivates a viewer to contact guests or businesses for additional information. For example: A program with a guest from a business or organization cannot contain a slate that states “For more information call or contact:...” Also, no phone number of a commercial business can be provided to the viewer.
6. The telephone number of certified non-profit organizations may be included as a service to the public. A non-profit may be required to provide documentation of its non-profit status.

7. The direct solicitation of funds or donations for any and all purposes is prohibited. Bona fide nonprofit agencies may appeal for volunteers or publicize fundraising events.

8. Material which constitutes libel, slander, invasion of privacy, or publicity rights, unfair competition, violation of trademark or copyright, or which might violate any local, state, or federal law.

B. Copyright and other Clearances

Users presenting a tape-recorded or live program for cablecast must state in writing that they have made all appropriate arrangements to obtain all rights to materials to be cablecast.

Users shall obtain in writing, the consent of all persons and parental permission for all minors appearing in programs submitted for cablecasting. Sample Talent Release Forms are available online at www.modesto.tv.

C. Minors Submitting Programs

A parent or legal guardian must sign the Cablecast Agreement for each program submitted by a minor. Staff may request copies of all clearances and releases before airing a program.

D. Acknowledgements and Disclaimers

The presenter of a program must be clearly identified on a slate appearing at the beginning and end of each program. The slate must include the presenter's name and address. A phone number is optional. The slate provides the viewer with contact information in case of questions or concerns. (A presenter is a Modesto resident or organization who signs the cablecast
agreement form and submits a show for airing. Presenters are legally responsible
for the content of a show. The presenter may or may not be the producer of the
program.)

E. Viewer’s Discretion

Presenters are required to notify staff if their program contains matter
inappropriate for children, or issues of a particularly sensitive nature for which
viewer’s discretion is advised. An announcement must be included at the
beginning of a program to indicate that portions of the upcoming program may
contain such materials. Presenters are requested to work with AccessModesto
Community TV staff to appropriately schedule programs of this nature between
the hours of 1:00 and 4:00 a.m.

F. Ownership

The presenter of any program submitted for cablecasting on any of the
AccessModesto Community TV channels retains copyright ownership of the
program. AccessModesto Community TV reserves the right to retain a copy of
the program for later cablecasting on the community channel or for other non-
commercial, promotional purpose.

G. Distribution Rights

The producer/presenter retains the rights of distribution for all programs
aired on AccessModesto Community TV channels.

H. Underwriting and Sponsorship

Public Access producers are permitted to seek underwriting and
sponsorship for their productions, as long as the support is in direct relation to
the cost of program production. Free use of access facilities is not intended for
the financial gain or employment of the producer. The producer may give on-air
credit to the person or organization that has given financial or in-kind support for the production or promotion of a program using the following guidelines:

- **Length**: A credit of up to 30 seconds is given per every 30 minutes of programming. For instance, a half hour show (30 minutes) would receive a 30-second slot for crediting sponsors and an hour show (60 minutes) would get one-minute (60 seconds) of time for sponsor acknowledgment.

- **Placement**: Credits may be placed at the beginning, middle, and/or end of a show. The credit may be split into any time increment.

However, the total amount of sponsorship credit may not exceed the amount determined by the length of the program. For instance, if you have one sponsor for a 30-minute show, they can use all 30 seconds of the time allotted for sponsorship. However, if you have 2 sponsors for a half hour (30-minute) show, the total amount of sponsorship credit time may not exceed 30 seconds. One sponsor may have 20 seconds, but then the other sponsor can only have 10 seconds.

- **Contents**: A credit may contain:
  - The Company/Person’s Name
  - The Company Logo
  - The Company/Person’s Address and/or Phone Number
  - A web site address
  - A qualifying line – A five word description of the business type that can describe the service or product provided by the company.

A credit **MAY NOT** contain

- A video or photograph of a product
- A description of services
o A slogan – A slogan is defined by AccessModesto Community TV as a copyrighted catch phrase associated with a company that is used for marketing purposes and established to assist that business in making a profit
o Phone number of a commercial venture or person
o A promotion of any form for the purchase or use of alcoholic or tobacco products

I. Non-commercial

Companies can sponsor shows:

o Which cover local, public community events relating to their product or service.

Companies cannot sponsor shows:

o About themselves
  o Showing their product or service exclusively
V. Programming Publicity

A. Program Schedule

Specific requests for airtimes will be met when possible. Generally, program cablecast requests submitted to AccessModesto Community TV four (4) weeks prior to the requested airdate will be listed in the TV listings aired on the Public-Education-Government Bulletin Board. The schedule will also appear on the AccessModesto Community TV website (www.modesto.tv) which is updated weekly.

B. Producer's Promotion

Presenters are encouraged to promote and otherwise encourage viewership for their programs. Presenters can submit program description forms, which will be faxed by the AccessModesto Community TV staff to media outlets.

C. Cable Guide

The Cable Guide is aired daily on Channel 28. Programming on the AccessModesto Community TV channels will be submitted each week for this daily listing service.
VI. Program Scheduling Policies

AccessModesto Community TV's scheduling policies are designed to:

- Provide equitable allocation of available channel time, as determined by our Operating Policies and Procedures
- Give residents, education institution and government agencies of the City of Modesto and Stanislaus County priority in the allocation of airtime on the community access channels.
- Encourage viewership of the community channels
- Maximize opportunities for program promotion

A. General Scheduling

The channels will be scheduled in blocks of time dedicated to Public, Education, and Government programming. The Public Access block is divided into general categories to show a mix of different types of programming throughout the week.

a. Priority: To establish priority, the following will be considered:

- Time-dated programs
- Locally-produced programming
- Programs that have not been previously shown on the community channel
- Programs produced by new producers

B. Review

All program schedules are subject to review by the programming staff. No individual may reserve a specific time slot, except with an approved series. The programming schedule appears on the website at www.modesto.tv.
C. Series

Series seasons run quarterly for 12 weeks. There is a one-week break between seasons. Series applications are available to producers in the City Manager’s Office, 1010 Tenth Street, Suite 6100; online at www.modesto.tv; or may be requested by fax or mail by calling 525-5104. The awarding of series time slots will be at the discretion of City of Modesto Local Cable Citizen Advisory Committee. Priority will be given to live series and new series programs.

D. New Users and Time Dated Programs

Staff reserves several time slots each week to accommodate programs created by new eligible users and/or time dated programs.

E. Repeats

AccessModesto Community TV reserve the right to repeat the same show within each programming block period. The number of playback times is limited to two (2) per week for all programs, with a maximum playback of three (3) times per week if scheduling allows. This excludes any contractual agreements the City may have with presenters.

F. Sensitive Programs

Programs, which contain material that may be inappropriate for children or deal with issues of a particularly sensitive nature, will be cablecast in accordance with FCC guidelines. It is the program presenter’s responsibility to notify AccessModesto Community TV staff in advance if their program is of a sensitive nature. A Program Content Survey must be completed for each submission. The presenter is encouraged to work with AccessModesto Community TV staff to discuss special scheduling, disclaimers, and any other programming issues that may arise from cablecasting sensitive material.
G. Program Submission

A presenter must submit a signed Cablecast Agreement prior to submitting any programming. A Program Content Survey form must be submitted with each program. Programs submitted without the Program Content Survey will not be aired. Since a tape must be entered into the AccessModesto Community TV tape database, labeled, and scheduled, an airdate cannot be given at the time of submission. Airdates will be available approximately three business days after a tape has been submitted. Producers submitting episodes of an approved series must deliver the tape and Program Content Survey to AccessModesto Community TV at least seven days prior to their time slot to allow for scheduling, unless other arrangements are agreed upon with the Programming Manager.

H. Re-submittal of regular programs and series programs

Regular programs will air for up to two years. Upon a program’s expiration, AccessModesto Community TV will act according to the instructions provided by the presenter on the cablecast agreement form. Re-submittals will be considered on a case-by-case basis. Series programs can be resubmitted for up to two more airdates. These additional airdates will be at the discretion of the programming department and will be subordinate to regular submittals and first-time series programs.

I. Failure to Submit Tape

In the case of a series, producers who fail to submit tapes on schedule will risk the loss of their time slots. Staff reserves the right to cancel the series if the producer fails to provide a new show within the agreed upon time frame.

J. Cancellation, Pre-emption and Rescheduling

Staff reserves the right to pre-empt the regular schedule as necessary to accommodate date sensitive programs, technical difficulties, education and/or
government related news conferences, or emergency announcements or programming. Staff shall make every effort to reschedule pre-empted programs at the earliest available time slot.

K. Program Length

The recommended length for programming on Access Modesto Cable TV is 28:30 minutes for a half hour show and 58:30 minutes for an hour show. These lengths allow time in-between programs for public service announcements (PSAs), stations identifications, and the interactive bulletin board. PSAs and station ID's are available at AccessModesto Community TV for producers to tag onto their programs.

L. Exceeding Time Slot

The community channels run several hours in the evenings and weekend by computer automation with a limited amount of VCR's for program playback. AccessModesto Community TV reserves the right to cut series programming which exceeds its scheduled time slot, unless prior arrangements are made. For example, a half-hour series program should not exceed 30:00 minutes, even by half a second. This could cause the program credits to be cut short, or the next program to start late. Series producers must submit a properly timed program in order to help maintain the schedule and create the best possible appearance of the community channels.
VII. Technical Issues

A. Tape Formats

Acceptable tape formats for cablecasting include DVD, Mini-DV, and DV Cam, SVHS, VHS.

B. Technical Standards

Tape-recorded programs must have technical standards high enough to deliver a clear and unbroken picture to cable subscribers. The audio must be clearly understandable and at audible levels without distortion. Tapes should be recorded in standard play speed (SP). Tapes recorded in extended play (EP) will not be accepted.

C. Technical Information

a. There must be at least 30 and no more than 90 seconds of black at the head of the tape. Tapes will not be accepted with more than 90 seconds of black before the program. Color bars are not necessary.

b. The black section must be followed by the Viewers Discretion Advisory, if required. The beginning of this Advisory is the beginning of the program.

c. An identification slate, which includes the name and address of the presenter of the program, must then be displayed for at least 10 seconds. A phone number is optional.

d. The program audio and video should begin within 3 seconds of the end of the presenter's slate.

e. Program credits should appear at the end of the program. Credits should include the name of each crewmember
(unless anonymity is requested), and allowable credit to the underwriters/sponsors of the show.

f. Repeat the presenter's slate. The end of this page is the end of the show.

g. The end of the show must be followed by 30 seconds of black.

D. Label Information

The following information must be legibly included on labels affixed to both the videocassette and videocassette box. If the information is not on the label or is unreadable, the tape will not air.

a. Presenter's name, local address, and phone number

b. Program Title

c. Exact length of programs (minutes, seconds, and frames timed from the first frame of the beginning title page to the last frame the end title page)

d. Date (month and year) you are submitting the program

THE FOLLOWING ARE EXAMPLES OF ACCEPTABLE “VIDEOTAPE SPINE” LABELS

<table>
<thead>
<tr>
<th>Stanislaus County Office of Education</th>
<th>TRT: 30:00</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Making the Grade: Outdoor Education&quot;</td>
<td>Education Access, Ch. #27</td>
</tr>
<tr>
<td>Monday &amp; Friday at 5:30 pm - Month of August</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fridays at 10 pm</th>
<th>“TV Show”</th>
<th>TRT: 30:00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Month of August</td>
<td>Public Access</td>
<td></td>
</tr>
</tbody>
</table>

THE FOLLOWING ARE EXAMPLES OF ACCEPTABLE “VIDEOTAPE FACE” LABELS

<table>
<thead>
<tr>
<th>S.C.O.E</th>
<th>TRT: 30:00</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Making the Grade&quot;</td>
<td></td>
</tr>
<tr>
<td>AUGUST</td>
<td></td>
</tr>
<tr>
<td>Mon/Fri at 5:30 pm</td>
<td></td>
</tr>
<tr>
<td>Education Access, Ch. #27</td>
<td></td>
</tr>
<tr>
<td>&quot;TV SHOW&quot;</td>
<td></td>
</tr>
<tr>
<td>AUGUST EPISODE</td>
<td></td>
</tr>
<tr>
<td>Fridays at 6:30 pm</td>
<td></td>
</tr>
<tr>
<td>Ch. #2</td>
<td>TRT: 30:00</td>
</tr>
</tbody>
</table>
V. INFRACTIONS AND APPEALS PROCESS

A. Violations

Violations of AccessModesto Community TV's programming policies and rules, or breaches of the Statement of Compliance may subject the offender to immediate forfeiture of the privilege of using the channel, facilities, and services. The City Manager, according to the severity and frequency of the infractions, will determine the duration of the forfeiture. Violations of AccessModesto Community TV's Operating Policies and Procedures will be documented in writing in the user's file. Violators of the AccessModesto Community TV Policies and Procedures will face the following penalties:

- First Violation: Loss of privileges for six (6) months
- Second and Repeat Violations: Loss of privileges for one (1) year and a possible fine.

B. Appeals Process

If staff imposes sanctions on a user or refuses to cablecast a user's program, the user may appeal to the Local Cable Citizen Advisory Committee for a hearing. The following steps shall be followed for appeals:

1. User first meets with the AccessModesto Community TV Manager to discuss his/her concern.
2. If the user feels his/her concern has not been resolved, the user must present a written report to the Local Cable Citizen Advisory Committee, which will review and make recommendations to the Modesto City Council. If a quorum of the Local Cable Citizen Advisory Committee is not available, appeals will be taken directly to the Modesto City Council for review.
3. The Modesto City Council may request a public hearing with the user, or may direct the AccessModesto Community TV Manager to respond to the report.
A RESOLUTION ESTABLISHING LITTER REMOVAL AND LANDSCAPE MAINTENANCE FEES ASSOCIATED WITH THE "DON'T TRASH MODESTO" CAMPAIGN

WHEREAS, in 2001, the City embarked upon a campaign to reduce litter and improve the image of our community, and

WHEREAS, the bulk of the City's image enhancement efforts has been accomplished largely through private donations of funds, materials and labor, and

WHEREAS, since 1994, the City has used Neighborhood Environmental Action Teams [NEAT] to channel beautification volunteers, and

WHEREAS, the format of the NEAT program originally involved only donated labor and no paid sponsorships, and

WHEREAS, the "Don't Trash Modesto" Campaign provides opportunities for paid sponsorships as well as donated labor as part of the NEAT program, and

WHEREAS, City staff is recommending that NEAT program volunteers can either perform the work of litter removal and landscape maintenance themselves or pay others to perform the work as arranged by city staff, and

WHEREAS, the proposed litter removal and landscape maintenance fees for volunteers wishing to pay others are one hundred dollars ($100.00) per mile to Adopt a Right of Way, fifteen dollars ($15.00) per mile to Adopt a Trail, and forty cents ($.40) per square foot to Adopt a Planter, and negotiated on a case by case basis to Adopt a Park, and

WHEREAS, the proposed fees are based upon current contract costs and reflect the actual cost of performing beautification and litter removal services, and

WHEREAS, the proposed fees would help offset the costs for the Honor Farm Deputy and inmates that perform litter removal, and

WHEREAS, the Economic Development Committee recommended approval by the City Council at its January 13, 2003, meeting, and

WHEREAS, by an agenda report dated January 23, 2003, from the Operations and Maintenance Director, city staff recommended to the City Council that litter
removal and landscape maintenance fees associated with the “Don’t Trash Modesto” campaign be established, a copy of said report is on file in the City Clerk’s office, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council to be held at 5:30 p.m. on February 11, 2003, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, for the purpose of receiving public comment on the proposed fees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the litter removal and landscape fees associated with the “Don’t Trash Modesto” Campaign as follows:

<table>
<thead>
<tr>
<th>NEAT Zone</th>
<th>Monthly Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adopt a Right of Way</td>
<td>$100 per mile for litter removal</td>
</tr>
<tr>
<td>Adopt a Trail</td>
<td>$15 per mile for litter removal</td>
</tr>
<tr>
<td>Adopt a Park</td>
<td>negotiated by park and activity</td>
</tr>
<tr>
<td>Adopt a Planter</td>
<td>$.40 sq ft. for landscape maintenance contract</td>
</tr>
</tbody>
</table>

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM

MIKE MILICH, City Attorney
A RESOLUTION ESTABLISHING PASSENGER FARES FOR MODESTO
AREA EXPRESS (MAX) BART EXPRESS AND ACE EXPRESS COMMUTER
ROUTES AND RESCINDING RESOLUTION NO. 2000-639.

WHEREAS, the City of Modesto provides commuter services on Modesto Area
Express (MAX) to connect Modesto with the Dublin/Pleasanton BART station (MAX
BART Express) and the Manteca/Lathrop Altamont Commuter Express (ACE) train
station (MAX ACE Express), and

WHEREAS, due to increasing costs of operation City staff is recommending
increasing fares for the BART Express and ACE Express routes, and

WHEREAS, the Economic Development Committee met on January 13, 2003,
and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated January 15, 2003,
from the Engineering and Transportation Director, City staff recommended to the
Council accepting staff's recommendation of increasing fares for the BART Express
and ACE Express routes, and

WHEREAS, a duly noticed public hearing was held by the Council on February
11, 2003, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto,
California, at which public hearing all interested persons were given an opportunity to be
heard relative to the proposal to increase fares on the BART Express and ACE Express
routes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
Modesto that the following fares are hereby established for passengers riding on the
MAX BART Express operating between Modesto and the Dublin/Pleasanton BART
station:

1. One-fourth Month $39.00
2. One-half Month $55.00
3. Three-fourths Month $85.00
4. Full Month $126.00

RESCINDED

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2003-77
5. One-way $9.00
6. Round-trip $11.00

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

1. One-Way Trip $2.00
2. 20-Ride Ticket ($1.50 per one-way trip) $30.00

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the above fees shall go into effect on and after May 1, 2003.

BE IT FURTHER RESOLVED that Resolution No. 2000-639, adopted by the City Council on December 12, 2000, is hereby rescinded effective April 30, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: Jackman

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-78

A RESOLUTION DIRECTING STAFF TO PURCHASE TWO BUSES FOR THE MODESTO AREA EXPRESS (MAX) BART EXPRESS AND ACE EXPRESS COMMUTER ROUTES.

WHEREAS, the City of Modesto provides commuter services on Modesto Area Express (MAX) to connect Modesto with the Dublin/Pleasanton BART station (MAX BART Express) and the Manteca/Lathrop Altamont Commuter Express (ACE) train station (MAX ACE Express), and
WHEREAS, City staff is recommending the purchase of two buses to improve service quality and provide a spare bus for said routes, and
WHEREAS, the Economic Development Committee met on January 13, 2003, and supported the recommendation of City staff, and
WHEREAS, by an agenda report to the City Council dated January 15, 2003, from the Engineering and Transportation Director, City staff recommended to the Council accepting staff’s recommendation of purchasing two additional buses to operate on the MAX BART Express and MAX ACE Express routes, and
WHEREAS, the estimated cost of the two buses is $770,000, and
WHEREAS, the cost of the buses will be funded with a combination of federal (83% of total cost) and Local Transportation Fund (17% of total cost) dollars.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is hereby directed to include in the fiscal year 2003-04 budget funds for the purchase of two buses to be used on the MAX BART Express and MAX ACE Express routes.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: Jackman

ABSENT: Councilmembers: None

ATTEST: ____________________________

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ____________________________

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-79

A RESOLUTION DIRECTING STAFF TO PROMOTE THE MODESTO AREA EXPRESS (MAX) BART EXPRESS AND ACE EXPRESS COMMUTER ROUTES.

WHEREAS, the City of Modesto provides commuter services on Modesto Area Express (MAX) to connect Modesto with the Dublin/Pleasanton BART station (MAX BART Express) and the Manteca/Lathrop Altamont Commuter Express (ACE) train station (MAX ACE Express), and

WHEREAS, City staff is recommending that these two routes be promoted to increase ridership, reduce traffic congestion, and improve air quality, and

WHEREAS, the Economic Development Committee met on January 13, 2003, and supported the recommendation of City staff, and

WHEREAS, by an agenda report to the City Council dated January 15, 2003, from the Engineering and Transportation Director, City staff recommended to the Council accepting staff’s recommendation to promote the MAX BART Express and MAX ACE Express routes, and

WHEREAS, a more comprehensive promotional program will alert consumers to the potential for commuting to the Bay Area using public transportation and is likely to increase fare revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is hereby directed to promote the MAX ACE Express and MAX BART Express routes.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: Jackman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-80


WHEREAS, the City of Modesto (hereafter referred to as "CITY") and Modesto Police Management Association (hereafter referred to as "MPMA") entered into a Memorandum of Understanding on May 23, 2000, covering the term of June 20, 2000, through June 27, 2005, which provides authorized increases in CITY'S contribution toward Health, Dental and Vision premiums of $30 effective August 2003, and $30 effective August 2004, and which provides that the CITY shall make no contribution toward employee's 9% Retirement contribution effective July 29, 2003, and

WHEREAS, representatives of CITY and the MPMA have met and discussed the issue of CITY contribution toward Health, Dental and Vision premiums for employees with Family coverage and have agreed to amend the current MPMA MOU to include additional increases totaling $215/month to be phased-in over a 16 month period, and

WHEREAS, representatives of the CITY and MPMA have met and discussed the issue of the CITY'S contribution toward retirement and have agreed to amend the current MPMA MOU to provide for increasing the CITY'S payment of the employee's contribution to the Public Employees' Retirement System to 7.5%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Memorandum of Understanding between
the City of Modesto and the Modesto Police Management Association effective February 11, 2003, to increase the CITY’S contribution to Family Health, Dental and Vision to $556.76/month effective March 25, 2003, to $656.76/month effective August 1, 2003, and to $731.76/month effective August 1, 2004,

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves that the CITY shall pay 4% of the Employee's 9% Retirement contribution, effective March 25, 2003, and CITY shall pay 7.5% of the Employee's 9% contribution effective March 9, 2004. Effective March 25, 2003, CITY paid employee contributions shall be reported to the Public Employees' Retirement System as compensation. CITY and MPMA further agree to cost sharing, effective July 1, 2004, for increases in the Normal Cost of Retirement in excess of 18.3%.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-81

A RESOLUTION AMENDING RESOLUTION NO. 2000-252 ENTITLED "A RESOLUTION APPROVING AN AMENDMENT TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICERS ASSOCIATION, EFFECTIVE JUNE 20, 2000" TO PROVIDE INCREASED HEALTH, DENTAL AND VISION BENEFITS FOR EMPLOYEES WITH FAMILY COVERAGE AND INCREASED RETIREMENT BENEFITS TO EMPLOYEES REPRESENTED BY MPOA.

WHEREAS, the City of Modesto (hereafter referred to as "CITY") and Modesto Police Officers Association (hereafter referred to as "MPOA") entered into a Memorandum of Understanding on December 14, 1999 covering the term of December 21, 1999, through June 30, 2003 (Resolution No. 1999-621), and

WHEREAS, the CITY and MPOA entered into an amendment to said MOU on May 23, 2000, effective June 20, 2000, and extending the term of the MOU through December 27, 2004, and said amendment provides that the CITY shall make no contribution toward employee's 9% Retirement contribution effective July 29, 2003, and

WHEREAS, the CITY is having difficulty recruiting Police Officers, and

WHEREAS, representatives of CITY and the MPOA have met and discussed the issue of CITY contribution toward Health, Dental and Vision premiums for employees with Family coverage and have agreed to amend the current MPOA MOU to include additional increases totaling $215/month to be phased-in over a 16 month period, and

WHEREAS, representatives of the CITY and MPOA have met and discussed the issue of the CITY'S contribution toward retirement and have agreed to amend the current MPOA MOU to provide for increasing the CITY'S payment of the employee's contribution to the Public Employees' Retirement System to 7.5%, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Memorandum of Understanding between the City of Modesto and the Modesto Police Officers Association effective February 11, 2003, to increase the CITY'S contribution to Family Health, Dental and Vision to $556.76/month effective March 25, 2003, to $656.76/month effective August 1, 2003 and to $731.76/month effective August 1, 2004.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves that the CITY shall pay 4% of the Employee's 9% Retirement contribution effective March 25, 2003, and CITY shall pay 7.5% of the Employee's 9% contribution effective March 9, 2004. Effective March 25, 2003, CITY paid employee contributions shall be reported to the Public Employees' Retirement System as compensation. CITY and MPOA further agree to cost sharing, effective July 1, 2004, for increases in the Normal Cost of Retirement in excess of 18.3%.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING SECTION 8 OF RESOLUTION NO. 2002-307
ENTITLED "A RESOLUTION GRANTING SALARY AND BENEFIT CHANGES TO MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS, AMENDING THE CLASS RANGE TABLE FOR POLICE CAPTAIN (EXHIBIT 'G') TO PROVIDE A 2.5% EQUITY ADJUSTMENT EFFECTIVE JUNE 18, 2002, AND RESCINDING RESOLUTION NO. 2001-270" TO PROVIDE INCREASED CONTRIBUTIONS FOR HEALTH BENEFITS FOR UNREPRESENTED SWORN FIRE MANAGEMENT AND UNREPRESENTED SWORN POLICE MANAGEMENT EMPLOYEES.

WHEREAS, by Resolution No. 2002-307, effective June 18, 2002, City granted salary and benefit increases to unrepresented Management and Confidential employees, and

WHEREAS, CITY desires to amend those benefits as they relate to health contributions for unrepresented Sworn Fire Management employees and unrepresented Sworn Police Management employees to increase the CITY'S contribution toward Health, Dental and Vision premiums for said employees with Family coverage, and

WHEREAS, CITY previously authorized increases in CITY'S Health contribution of $30/month effective August, 2003, and $30/month effective August, 2004, and now desires to increase the CITY’S contribution by an additional $215/month to be phased in over a 16 month period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending Section 8 of Resolution No. 2002-307 as it applies only to unrepresented Sworn Fire Management employees and unrepresented Sworn Police Management employees as follows:
<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Family Contribution</th>
<th>Single Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 2001</td>
<td>$416.76 mo.</td>
<td>$317.98 mo.</td>
</tr>
<tr>
<td>August 1, 2002</td>
<td>$456.76 mo.</td>
<td>$317.98 mo.</td>
</tr>
<tr>
<td>March 25, 2003</td>
<td>$556.76 mo.</td>
<td>$317.98 mo.</td>
</tr>
<tr>
<td>August 1, 2003</td>
<td>$656.76 mo.</td>
<td>$347.98 mo.</td>
</tr>
<tr>
<td>August 1, 2004</td>
<td>$731.76 mo.</td>
<td>$377.98 mo.</td>
</tr>
</tbody>
</table>

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING A LABOR POLICY PROVIDING FOR PUBLIC EMPLOYEES’ RETIREMENT SYSTEM EMPLOYEE CONTRIBUTIONS TO BE PAID BY THE CITY ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE OFFICERS ASSOCIATION (“MPOA”).

WHEREAS, by Resolution No. 2000-253 adopted by the Council, the City adopted a labor policy providing for Public Employees’ Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the Council desires to amend said policy,

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

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 25, 2003, the City of Modesto elects to pay four percent (4%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 9, 2004, the City of Modesto elects to pay seven and one-half percent (7.5%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

This benefit shall apply to all employees represented by the Modesto Police Officers Association (MPOA) who are classified police safety members by PERS.
BE IT FURTHER RESOLVED that this Resolution shall become effective on March 25, 2003.

BE IT FURTHER RESOLVED that effective March 25, 2003, Resolution No. 2000-253 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

APPROVED AS TO FORM

By Michael D. Milich, City Attorney
A Resolution Amending a Labor Policy Providing for Public Employees' Retirement System Employee Contributions to Be Paid by the City on Behalf of Employees Represented by the Modesto Police Management Association ("MPMA") and Unrepresented Management Police Safety Members.

WHEREAS, by Resolution No. 2000-251 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the Council desires to amend said policy,

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

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 25, 2003, the City of Modesto elects to pay four percent (4%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

Pursuant to the provisions of Section 20691 of the California Government Code, effective March 9, 2004, the City of Modesto elects to pay seven and one-half percent (7.5%) of the normal member contributions of nine percent (9%) as employer-paid member contributions (EPMC) and report same to PERS as compensation for safety members. Such payment shall be implemented pursuant to the provisions of Section 20636(c)(4) of the California Government Code.

This benefit shall apply to all employees represented by the Modesto Police Management Association (MPMA) who are classified police safety members by PERS and to unrepresented management personnel classified as police safety members by PERS.
BE IT FURTHER RESOLVED that this Resolution shall become effective on March 25, 2003.

BE IT FURTHER RESOLVED that effective March 25, 2003, Resolution No. 2000-251 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________________
JEAN ZAHN, City Clerk
(SEAL)

APPROVED AS TO FORM

By ________________________________
MICHAEL D. MILICH, City Attorney

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-84

A RESOLUTION AMENDING THE FISCAL YEAR 02-03 OPERATING BUDGET TO TRANSFER $208,900 FROM 7510-800-8000-8003 EMPLOYEE BENEFITS FUND, TO THE GENERAL FUND, 0100-190-1961-0151, $46,500; 0100-180-1832-0151, $2,400; 0100-190-1961-0160, $160,000; TO PROVIDE FUNDING TO INCREASE THE CITY’S CONTRIBUTION TOWARD FAMILY HEALTH, DENTAL, AND VISION BENEFITS AND RETIREMENT BENEFITS FOR EMPLOYEES REPRESENTED BY MPOA, MPMA AND FOR UNREPRESENTED SWORN POLICE AND SWORN FIRE MANAGEMENT EMPLOYEES.

WHEREAS, the City desires to increase the City’s contributions toward Health, Dental, and Vision Benefits for employees represented by Modesto Police Officers Association (MPOA), Modesto Police Management Association (MPMA) and for unrepresented Sworn Police and Sworn Fire Management employees who have Family coverage, and

WHEREAS, the City also desires to increase the City’s payment toward the employees retirement contribution for employees represented by MPOA, MPMA and for unrepresented Sworn Police Management employees, and

WHEREAS, in addition to funds budgeted within the Retiree Health Sick Leave Conversion, 7510-030-6650-0128, an additional $208,900 is needed to implement the increases for Family Health, Dental and Vision coverage and increases in the City’s payment of the employee’s retirement contribution,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2002-03 Operating Budget is hereby amended to transfer $208,900 from the Employee Benefits Fund Reserve 7510-800-8000-8003, to: General Fund
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-85

A RESOLUTION ACCEPTING THE PRELIMINARY CAPITAL FACILITY FEES, INITIATING PROCEEDINGS TO ADOPT THE UPDATED CFF BY SETTING A PUBLIC HEARING TO BE HELD ON MARCH 11, 2003, TO REVIEW THE FINAL REPORT AND ADOPT THE UPDATED CAPITAL FACILITY FEES, AND DIRECTING STAFF TO PUBLISH LEGAL NOTICE OF THE PROPOSED CFF UPDATE

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Sections 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facility Fees (CFF), and

WHEREAS, the City is in the process of updating its Capital Facility Fees, and

WHEREAS, the City of Modesto is in the process of updating its General Plan and General Plan Master Environmental Impact Report, and

WHEREAS, the Capital Facilities FEES update has been coordinated to be consistent with the proposed update of the City’s General Plan and Master Environmental Impact Report, and

WHEREAS, it is desirable to update the CFF prior to the final development of the updated financing plan for the Village One CFD,

WHEREAS, on January 27, 2003, the Finance Committee recommended the CFF report and preliminary fees be accepted and presented to the City Council for further consideration, and

WHEREAS, on February 11, 2003, the City Council considered City staff’s recommendation to accept the CFF Update Report and the preliminary CFF, initiate proceedings to adopt the updated CFF by setting a public hearing to be held on March 11, 2003, to review the final report and adopted the updated CFF and directing staff to publish legal notice of the proposed CFF update.

NOW, THEREFORE, BE IT RESOLVED that the Council hereby accepts the CFF Update Report, dated January 31, 2003, and the preliminary CFF and attached to this resolution, and made a part hereof.
BE IT FURTHER RESOLVED that the Council hereby initiates proceedings to adopt the updated CFF and sets a public hearing to be held on Tuesday, March 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California for the purpose of reviewing the final CFF Report and adoption of updated Capital Facility Fees, and hereby directs staff to publish legal notice of the public hearing pursuant to Government Code Section 65090.

BE IT FURTHER RESOLVED that the Council sets a public hearing at its regularly scheduled Council meeting of March 11, 2003 to review the final Capital Facility Report and to adopt updated Capital Facility Fees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BRUCE JONES AND RALPH JUAREZ FROM THE PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, BRUCE JONES and RALPH JUAREZ were appointed members of the Public Events Advisory Committee on June 25, 2002, and

WHEREAS, BRUCE JONES and RALPH JUAREZ have tendered their resignations from the Public Events Advisory Committee, and

WHEREAS, BRUCE JONES and RALPH JUAREZ have been devoted and sincere public servants and have contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of BRUCE JONES and RALPH JUAREZ from the Public Events Advisory Committee be, and hereby is, accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to BRUCE JONES and RALPH JUAREZ for their outstanding service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM: 

Michael D. Milich, City Attorney

ATTEST: ________________

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-87

A RESOLUTION APPOINTING CHRIS MURPHY TO THE PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Mayor Sabatino’s appointment has since resigned, and

WHEREAS, Mayor Sabatino has nominated CHRIS MURPHY to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints CHRIS MURPHY to the Public Events Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM: ____________________________

Michael D. Milich, City Attorney

ATTEST: ____________________________

JEAN ZAHR, City Clerk
A RESOLUTION APPOINTING DANA PLUMMER TO THE PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Councilmember Keating’s appointment has since resigned, and

WHEREAS, Councilmember Keating has nominated DANA PLUMMER to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints DANA PLUMMER to the Public Events Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of February, 2003 by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:    Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES:    Councilmembers: None

ABSENT:  Councilmembers: None

APPROVED AS TO FORM:

Michael D. Milich, City Attorney

ATTEST:  JEAN ZAHN, City Clerk
A RESOLUTION AMENDING THE FISCAL YEAR 2002-2003 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2002-2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2002-2003 budget have been adjusted as shown in Schedule A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: (seal)

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MIKE MILICH, City Attorney
### 1ST QTR FY 02-03 ADJUSTMENTS - SCHEDULE A

<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Object</th>
<th>App Revenue Unit</th>
<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Appropriation</td>
<td>Real Property M&amp;R Supplies</td>
<td>0100</td>
<td>480</td>
<td>4612</td>
<td>0360</td>
<td>504,002</td>
<td>363,000</td>
<td>867,002</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Non-CIP Other</td>
<td>0700</td>
<td>410</td>
<td>4120</td>
<td>5900</td>
<td>1,533,611</td>
<td>(363,000)</td>
<td>(1,170,611)</td>
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</tr>
<tr>
<td></td>
<td>Transfer adjustment</td>
<td>0100</td>
<td>700</td>
<td>4612</td>
<td>9070</td>
<td>2,848,970</td>
<td>363,000</td>
<td>3,211,970</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Transfer adjustment</td>
<td>0700</td>
<td>700</td>
<td>4612</td>
<td>7010</td>
<td>2,848,970</td>
<td>363,000</td>
<td>3,211,970</td>
<td></td>
</tr>
</tbody>
</table>

This request is for a transfer of $363K from Gas Tax Fds. To the Streets Div. Oper. Budget, accnt # 0100-480-4612-0360. This funding was removed from the Streets Div. Budget as part of the 02-03 budget process with the understanding it would be backfilled with Gas Tax fds. This will allow us to overlay 3.6 lane miles of residential roadways. If not, funding will need to wait until July 03 to begin 2003 street overlay paving season.

| 2) Revenue | Storm Drain Loan Transfer | 6280 | 700 | 7000 | 9260 | 0 | 635,000 | 635,000 |
|            | Storm Drain Loan Reserve | 6280 | 800 | 8000 | 8003 | 0 | 635,000 | 635,000 |
|            | Village I-CFD Reserve | 2600 | 700 | 7000 | 7628 | 0 | 635,000 | 635,000 |

City Council authorized $635k payback to Storm Drain Fund. (reimbursement for purchase of the VI Central Basin land).

| 3) Carryover O&M Maintenance | Water Carryover | 6100 | 480 | 5013 | 0360 | 325,000 | 122,324 | 447,324 |
|                             | Water Carryover | 6100 | 480 | 5016 | 0360 | 300,000 | 29,866 | 329,866 |
|                             | Water Carryover | 6150 | 480 | 5056 | 0360 | 30,000 | 17,000 | 47,000 |
|                             | Wastewater Carryover | 6210 | 480 | 5225 | 0360 | 0 | 458,902 | 458,902 |
|                             | Wastewater Carryover | 6210 | 480 | 5226 | 0360 | 622,985 | 198,846 | 821,831 |
|                             | Wastewater Carryover | 6210 | 480 | 5227 | 0360 | 464,845 | 402,884 | 867,729 |

O&M requested all positive balances from year-end FY 01-02 maintenance accounts be re-appropriated to FY 02-03 balances. This was the understanding resulting from the move of these accounts from the Capital Improvements Program (CIP) to the operating budget for annual maintenance items.

### Grant Accountant Section

<p>| Bus Fund Adjustments: | 4) Revenue | LTF Transit Operations | 6510 | 160 | 1600 | 3158 | 3,002,470 | (1,295,488) | 1,706,982 |
|                       | Revenue | LTF Transit Operations | 6510 | 160 | 1600 | 3159 | 1,195,213 | 1,195,213 |
|                       | Revenue | STAF Transit Operations Grant | 6510 | 160 | 1600 | 3161 | 798,216 | 76,815 | 875,031 |
|                       | Revenue | LTF Amtrak Operations | 6510 | 160 | 1600 | 3162 | 66,943 | 66,943 |
|                       | Revenue | LTF Transit Capital Grant | 6510 | 160 | 1600 | 3204 | 883,400 | (862,843) | 20,557 |
|                       | Revenue | FTA 307 CA-90-X818-00 | 6510 | 160 | 1600 | 3541 | 0 | 270,230 | 270,230 |
|                       | Revenue | FTA 307 CA-90-Y162-00 Operate | 6510 | 160 | 1600 | 3548 | 0 | 1,386,843 | 1,386,843 |
|                       | Revenue | FTA Transit Capital Grant | 6510 | 160 | 1600 | 3604 | 1,533,600 | (1,533,600) | 0 |
|                       | Revenue | FTA Transit Capital Grant Carryover | 6510 | 160 | 1600 | 3605 | 1,386,834 | (1,386,834) | 0 |
|                       | Revenue | Fed. Funding for Operations | 6510 | 160 | 1600 | 3606 | 75,000 | (75,000) | 0 |
|                       | Revenue | Cash Fares &amp; Daily Passes | 6510 | 160 | 1600 | 4504 | 1,041,716 | 76,284 | 1,118,000 |</p>
<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Revenue</th>
<th>Unit</th>
<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>Student Passes Monthly</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4507</td>
<td>164,221</td>
<td>(221)</td>
<td>164,000</td>
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<tr>
<td>Revenue</td>
<td>Bart Express Passes</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4508</td>
<td>0</td>
<td>80,000</td>
<td>80,000</td>
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<tr>
<td>Revenue</td>
<td>E&amp;H Passes Monthly</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4510</td>
<td>183,971</td>
<td>29</td>
<td>184,000</td>
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<tr>
<td>Revenue</td>
<td>E&amp;H Ticket Books</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4511</td>
<td>21,673</td>
<td>327</td>
<td>22,000</td>
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<tr>
<td>Revenue</td>
<td>Commuter Books</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4513</td>
<td>2,630</td>
<td>370</td>
<td>3,000</td>
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<tr>
<td>Revenue</td>
<td>Student Ticket Books</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4514</td>
<td>39,969</td>
<td>31</td>
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<tr>
<td>Revenue</td>
<td>Reg Ride Book Sales</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4519</td>
<td>269,122</td>
<td>(122)</td>
<td>269,000</td>
<td></td>
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<tr>
<td>Revenue</td>
<td>Reg Monthly Bus Passes</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4522</td>
<td>219,415</td>
<td>90,585</td>
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<tr>
<td>Revenue</td>
<td>County Employee Fare Reimp.</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>4530</td>
<td>10,000</td>
<td>10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue</td>
<td>Interest</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>6101</td>
<td>20,000</td>
<td>20,000</td>
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<tr>
<td>Revenue</td>
<td>Bus Bench Advertising</td>
<td>6510</td>
<td>160</td>
<td>1600</td>
<td>8149</td>
<td>0</td>
<td>10,000</td>
<td>10,000</td>
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</tbody>
</table>

Reallocation of revenues to match expenses.

5) Dial-A-Ride:

<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Revenue</th>
<th>Unit</th>
<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>LTF Transit Operations</td>
<td>6320</td>
<td>160</td>
<td>1673</td>
<td>3158</td>
<td>0</td>
<td>627,475</td>
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<tr>
<td>Revenue</td>
<td>LTF Transit Def Rev Operations</td>
<td>6320</td>
<td>160</td>
<td>1673</td>
<td>3159</td>
<td>0</td>
<td>242,453</td>
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<tr>
<td>Revenue</td>
<td>FTA5307 CA-90-Y162-00 Operate</td>
<td>6320</td>
<td>160</td>
<td>1673</td>
<td>3548</td>
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<tr>
<td>Revenue</td>
<td>FTA-Capital Grant Carryover</td>
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<td>160</td>
<td>1673</td>
<td>3605</td>
<td>743,600</td>
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<tr>
<td>Revenue</td>
<td>Interest</td>
<td>6320</td>
<td>160</td>
<td>1673</td>
<td>6101</td>
<td>0</td>
<td>20,000</td>
<td>20,000</td>
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</table>

Total Revenue

5a) Transportation Center

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<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Revenue</th>
<th>Unit</th>
<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>FTA5307 CA-90-Y162-00 Operate</td>
<td>6330</td>
<td>160</td>
<td>1674</td>
<td>3548</td>
<td>0</td>
<td>35,000</td>
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</tr>
<tr>
<td>Revenue</td>
<td>Interest</td>
<td>6330</td>
<td>160</td>
<td>1674</td>
<td>6101</td>
<td>0</td>
<td>10,000</td>
<td>10,000</td>
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</tr>
<tr>
<td>Revenue</td>
<td>Telephone Commissions</td>
<td>6330</td>
<td>160</td>
<td>1674</td>
<td>6125</td>
<td>0</td>
<td>9,000</td>
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<tr>
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<td>1674</td>
<td>6201</td>
<td>0</td>
<td>100,000</td>
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<td>Revenue</td>
<td>Vending Commissions</td>
<td>6330</td>
<td>160</td>
<td>1674</td>
<td>8115</td>
<td>0</td>
<td>8,000</td>
<td>8,000</td>
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Total Revenue

Reallocation of revenue projection for multi-year project requiring use of fund balance to support full funding of project.

6) Fund 1400, 143, 170 and 0520 Adjustments:

<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Revenue</th>
<th>Unit</th>
<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
</tr>
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<tbody>
<tr>
<td>Appropriation</td>
<td>Reduce Virginia Corridor Transfer</td>
<td>0520</td>
<td>700</td>
<td>3122</td>
<td>7143</td>
<td>242,000</td>
<td>(84,000)</td>
<td>158,000</td>
<td></td>
</tr>
<tr>
<td>Revenue</td>
<td>Reduce Virginia Corridor Transfer</td>
<td>1430</td>
<td>700</td>
<td>3122</td>
<td>9052</td>
<td>242,000</td>
<td>(84,000)</td>
<td>158,000</td>
<td></td>
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<tr>
<td>Appropriation</td>
<td>Transaction applied in Prior Year</td>
<td>0520</td>
<td>700</td>
<td>D247</td>
<td>7170</td>
<td>108,000</td>
<td>(108,000)</td>
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<td>Revenue</td>
<td>Transaction applied in Prior Year</td>
<td>1700</td>
<td>700</td>
<td>D247</td>
<td>9052</td>
<td>108,000</td>
<td>(108,000)</td>
<td>0</td>
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<td>Appropriation</td>
<td>Transaction applied in Prior Year</td>
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<td>700</td>
<td>M271</td>
<td>7140</td>
<td>75,000</td>
<td>(75,000)</td>
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<td>Revenue</td>
<td>Transaction applied in Prior Year</td>
<td>1400</td>
<td>700</td>
<td>M271</td>
<td>9520</td>
<td>75,000</td>
<td>(75,000)</td>
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<tr>
<td>Appropriation</td>
<td>Budgeted twice in Blue Sheet in FY03</td>
<td>0520</td>
<td>160</td>
<td>N045</td>
<td>6010</td>
<td>75,000</td>
<td>(45,000)</td>
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<tr>
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<td>0520</td>
<td>160</td>
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<td>6040</td>
<td>755,000</td>
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<td>160</td>
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<td>N045</td>
<td>6060</td>
<td>60,000</td>
<td>(30,000)</td>
<td>30,000</td>
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</tr>
<tr>
<td>Appropriation</td>
<td>Increase Virginia Corridor</td>
<td>0520</td>
<td>310</td>
<td>M139</td>
<td>6010</td>
<td>270,000</td>
<td>134,000</td>
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<td>Increase Virginia Corridor</td>
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<td>310</td>
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<td>Revenue</td>
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<td>700</td>
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<td>9143</td>
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<td>Appropriation</td>
<td>Virginia Corridor Transfer to meet difference</td>
<td>1430</td>
<td>700</td>
<td>M139</td>
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2
1ST QTR FY 02-03 ADJUSTMENTS - SCHEDULE A

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<th>Type of Account</th>
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<th>Fund</th>
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<th>Orgn</th>
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<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
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<td>Revenue</td>
<td>Kansas Needham</td>
<td>0700</td>
<td>430</td>
<td>F265</td>
<td>3137</td>
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<td>800</td>
<td>8000</td>
<td>8003</td>
<td>0</td>
<td>(1,200,000)</td>
<td>(1,200,000)</td>
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</table>

This adjustment corrects the revenue budget to correspond to the expenditure budget considered last month by the Council (B7023). This budget is consistent with all previous Council actions and does not materially change the CIP budget. It is essentially a correction.

8)

<table>
<thead>
<tr>
<th>Cable Contract</th>
<th>Appropriation</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
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<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
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<tr>
<td>Appropriation</td>
<td>Communications &amp; Marketing</td>
<td>0100</td>
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<td>0219</td>
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<td>800</td>
<td>8000</td>
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<td>(2,103,641)</td>
<td>(110,000)</td>
<td>(2,213,641)</td>
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</table>

This adjustment is for a Cable Contract as part of the 02-03 Budget process. $110,000 of cable set asides money was to be transferred to the City Manager's budget for cable contract work. This transfer was not completed.
A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSALS FOR A PELANDALE MCHENRY PROJECT STUDY REPORT AND APPROVING THE PROPOSED EVALUATION CRITERIA FOR THE PELANDALE MCHENRY PROJECT STUDY REPORT

WHEREAS, Pelandale Avenue is planned to be a six lane expressway, and
WHEREAS, McHenry Avenue is planned to be a six lane arterial street, and
WHEREAS, this intersection will need to facilitate over 100,000 vehicles per day, and
WHEREAS, an urban interchange is planned to be constructed at this location, and
WHEREAS, City desires to proceed with a consultant selection process to include a Request for Qualifications (RFQs) and a Request for Proposals (RFPs) for the Pelandale McHenry Project Study Report, and
WHEREAS, City staff has proposed evaluation criteria to be included in the Request for Qualifications and the Request for Proposals, and
WHEREAS, the recommended evaluation criteria to be used in selecting a firm to perform the Pelandale McHenry Project Study Report is attached, and
WHEREAS, the Economic Development Committee met on February 10, 2003, reviewed the Pelandale McHenry Project Study Report RFQ/RFP process and recommended proceeding with the consultant selection process,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City staff to proceed with a Request for Qualifications and a Request for Proposals for the Pelandale McHenry Project Study Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the evaluation criteria as shown in the attached exhibit.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

2/25/03/ E&T / Richard Ulm
February 7, 2003

DRAFT

Consultant Name
John Doe, CEO
1234 ABC Street, Suite 10000
Your Town, CA 12345

SUBJECT: Request for Qualifications for City of Modesto
Pelandale/McHenry(SR108) Urban Interchange
Project Study Report

Dear Consultant:

The City of Modesto is soliciting qualifications of engineering consulting for the
preparation of the Pelandale/McHenry Urban Interchange Project Study Report. If
you wish to be considered for this work, please submit five (5) copies of the
qualifications by 4:00 p.m. by XXXX, 2003 to:

City of Modesto
Engineering and Transportation Department 4th Floor
1010 Tenth Street, Suite 4600
Modesto, CA 95354
Attention: Richard Ulm

Via Mail: P.O. Box 642, Modesto, CA 95353

Once the qualifications have been evaluated, request for proposals (RFPs) will be
sent to the firms City staff have determined are the most qualified to perform the
project. Following evaluation of the proposals, interviews will be conducted and
the City will select a consultant.

The City will evaluate all qualifications submitted, but the Request for
Qualifications does not commit the City of Modesto to award a contract, to pay
for any costs incurred in preparation or presentation of a Statement of
Qualifications, or to procure a contract for services. The selection considerations
for evaluating the Statement of Qualifications is included in this RFQ following
the Contents and Requirements section.

-4-
BACKGROUND:

Pelandale Avenue is planned to be a 6-lane expressway and McHenry Avenue (SR108) is planned to be a 6-lane principal arterial. McHenry Avenue is a state highway. Consequently, the project study report (PSR) shall conform to Caltrans format and will require review and approval by Caltrans.

It is projected that this intersection will need to facilitate over 100,000 vehicles per day at the City’s General Plan build-out. A single-point urban interchange is planned at this location to accommodate this level of traffic.

PLAN OF STUDY:

(A more detailed work plan will be included below in the final RFQ)

STATEMENT OF QUALIFICATIONS CONTENTS AND REQUIREMENTS:

Each proposal shall include the following information:

PROJECT MANAGER: The consultant’s Project Manager is defined to be the individual within the prime consultant’s firm who is directly responsible for and engaged in performing the required services. The Project Manager is the most knowledgeable individual regarding all aspects of the project but not necessarily a principal of the firm. The Project Manager should be located within two hours travel time of the project site.

Consultant is to provide the Project Manager’s:

- Name and title, name of firm employed by, years of experience with this firm, and years of experience with other firms
- Education, degrees, specialization, year attained
- Active professional registration, in what state, year first registered, discipline
- Firm(s), office location, and time period for each location at which the individual worked during the last five (5) years to the present
- Representative experiences: For not more than five (5) projects, provide the following information on two pages. Include project(s) he/she is currently working on and schedule to which he/she is committed.
  - Owner (or client firm is subconsultant), project description (including size), location and completion date.
  - Name, address and phone number of knowledgeable owner/client’s representative.
  - Consultant services for which the individual was directly responsible; service/functions directly performed by individual (not just job title).
  - Firm with which the individual was employed during project experience.
OTHER KEY PROJECT STAFF: Not more than four individuals may be listed. Provide for each individual:

- Name
- Specific project responsibility and functions to be performed
- Name of firm employed and office location where individual will perform required project services
- Years of experience with this firm and with other firms
- Education, degrees, specialization, year attained
- Active professional registration, in what state, year first registered, discipline
- Firm(s), office location, and time period for each location at which the individual worked during the last five (5) years to the present
- Representative experience (not more than five projects)
  - Owner, project description (including size), location and completion date.
  - Name, address and phone number of knowledgeable owner/client's representative.
  - Consultant services for which the individual was directly responsible; service/functions directly performed by individual (not just job title).
  - Firm with which the individual was employed during project experience.

FIRM(S) EXPERIENCE AND PRODUCTION CAPABILITIES: The following information is required for the prime consultant and any proposed subconsultant:

- Office address(s) in which services are to be performed and percentage of work to be performed in each office.
- Percentage of total fees in last five years, firm wide, received from similar service.
- Facilities, manpower and production capabilities of office(s) in which work is to be performed.
- Listing of recent experience related to this project in California, including type and size of consulting services provided and name, address, and phone number of knowledgeable owner/client representative.

FIRM LOCATION: City of Modesto Policy

It is the policy of the City of Modesto, when not prohibited by the funding source, that all other factors being equal, local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall normally be given priority in being considered for employment by the City. The location of any subconsultant firms proposed by the consultant will also be considered when applying this policy. The funding source for this project does not prohibit the application of this policy in this case.

SELECTION CONSIDERATIONS:

Rating 1-5
A. EXPERIENCE:

1. Years of experience of firm and/or its principals as design professionals.

2. Broad character and scope of past projects.

3. Experience of proposed study team members in studies of similar magnitude, design requirements and complexity within past five years.

4. If experience is lacking, explanation by consultant as to why it should be selected over others with more experience.

5. History of repeat business with clients. Stipulate the number of previous architectural or engineering contracts with the City of Modesto.

B. ANALYSIS:

6. Originality, creativity, and soundness of approach to problem solving and analysis of design requirements.

7. Demonstrated management and organizational ability as relates to time management, scheduling, City staff/client relationships, etc., and the ability to meet deadlines.

8. Ability to execute complete, clear, and concise reports and produce a quality work product.

C. GENERAL:

9. Size of firm and available staff appropriate to study size.

10. Location of firm in relation to City of Modesto and project size.

11. General comprehension of the study assignment and responsiveness to special study requirements.

12. Demonstrated understanding of community social relationships such as citizen and environmental concerns, energy conservation, ecological and economic considerations.

13. Firm reputation as relates to principles, credibility, and attitude.

ADDITIONAL INFORMATION:

Use up to 2 pages to provide any additional information supporting your firm's qualifications for the proposed project.
The proposal is expected to be clear and concise and respond to the requirements set forth in this Request for Proposals. Unnecessarily elaborate or glossy statements of qualifications are neither expected nor desired.

REPORT SCHEDULE:

The anticipated milestones for this report are as follows:

<table>
<thead>
<tr>
<th>MILESTONE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue Request for Qualifications (RFQs)</td>
<td>TBD</td>
</tr>
<tr>
<td>RFQs Due</td>
<td>TBD</td>
</tr>
<tr>
<td>Select and Issue Request for Proposals (RFPs)</td>
<td>TBD</td>
</tr>
<tr>
<td>RFPs Due</td>
<td>TBD</td>
</tr>
<tr>
<td>Consultants Interviews</td>
<td>TBD</td>
</tr>
<tr>
<td>Award Contract</td>
<td>TBD</td>
</tr>
</tbody>
</table>

A selection committee will review the responses and determine the best-qualified consultant(s), which will be invited to respond to an RFP.

If you have any questions, please contact me at (209) 577-5215.

Sincerely,

Richard Ulm
Deputy Director
February 7, 2003

DRAFT

Consultant Name
John Doe, CEO
1234 ABC Street, Suite 10000
Your Town, CA 12345

SUBJECT: Request for Proposals for City of Modesto
Pelandale/McHenry(SR108) Urban Interchange
Project Study Report

Dear Consultant:

The City of Modesto is soliciting proposals for the preparation of the
Pelandale/McHenry Urban Interchange Project Study Report. Your firm has been
selected to submit a proposal from those firms which submitted a statement of
qualifications. **If you wish to be considered for this work, please submit five (5) copies of the proposals by 4:00 p.m. by XXXX, 2003 to:**

City of Modesto
Engineering and Transportation Department
4th Floor
1010 Tenth Street, Suite 4600
Modesto, CA 95354
Attention: Richard Ulm

Via Mail: P.O. Box 642, Modesto, CA 95353

Following evaluation of the proposals, interviews will be conducted and the City will select a consultant.

The City will evaluate all proposals submitted, but this Request for Proposals does not commit the City of Modesto to award a contract, to pay for any costs incurred in preparation or presentation of a Proposal, or to procure a contract for services. The selection considerations for evaluating the Proposal is included in this RFP following the Contents and Requirements section.
PROPOSAL CONTENTS AND REQUIREMENTS:

Each proposal shall include the following sections:

1. **Scope of Services**

   The Scope of Services section shall include a description of the intended approach to complete the project study report. The consultant should specify data and the expected level of support from City staff and a description of the project deliverables.

2. **Project Team and Experience**

   This section should include the size of the organization and a list of the consultant’s principals, employees, agents, and subconsultants, which the proposer anticipates assigning to this project. This list shall include a summary of the qualifications, licenses, and experience of each individual, the type of work to be performed and availability of each individual.

   Additionally, this section will include a list of the most recent projects for which the consultant has performed similar services of similar scope, size, and complexity. This list shall include the name, contact person, address, and phone number of each party for whom the service was provided, as well as a brief description of the service performed, the dollar amount of the contract, and the date the project was completed.

3. **Project Schedule**

   The consultant shall provide a proposed schedule for all services necessary to complete the project specifying the major tasks, the expected time to complete each task, and the interdependency of the tasks.

4. **Estimated Level of Effort**

   The consultant shall provide an estimate of staff time, by task presented in the project schedule. This section will not include any estimate of costs.

5. **Proposed Compensation**

   The consultant shall provide, in a separately sealed and clearly marked envelope, the cost to be charged to the City by task and a total proposed project cost. The cost proposal shall identify the overall multiplier and include direct labor costs and expenses including travel and high-end computer use. Cost proposals will not be opened until after each firm interviewed has been ranked and the firm deemed most qualified has been selected. All cost proposals will then be opened and will form the basis of negotiations for the contract.
6. Contract

The successful firm will be asked to execute the City's standard agreement for consultant services. A copy is attached for reference. (Attachment X) The proposal shall note any exceptions to the standard contract that would prevent the consultant from executing the contract in its present form.

7. Insurance Certificate

A consultant providing a copy of its insurance certificate, or a letter of intent to provide insurance from the issuing company (including a description of types of coverage and dollar amount limits) may be favorably considered.

8. Resumes

Consultant shall provide resumes for each individual project team member.

The proposal is expected to be clear and concise and respond to the requirements set forth in this Request for Proposals. Unnecessarily elaborate or glossy proposals are neither expected nor desired.

PROJECT DESCRIPTION:

(A detailed project description will be included below in the final RFP)

FIRM LOCATION: City of Modesto Policy

It is the policy of the City of Modesto, when not prohibited by the funding source, that all other factors being equal, local firms whose qualifications are satisfactory and who have sufficient experience and capabilities for providing the necessary professional services shall normally be given priority in being considered for employment by the City. The location of any sub-consultant firms proposed by the consultant will also be considered when applying this policy.

SELECTION CONSIDERATIONS:

Rating 1-5

A. EXPERIENCE:

1. Years of experience of firm and/or its principals as design professionals.

2. Broad character and scope of past projects.
3. Experience of proposed study team members in studies of similar magnitude, design requirements and complexity within past five years.

4. If experience is lacking, explanation by consultant as to why it should be selected over others with more experience.

5. History of repeat business with clients. Stipulate the number of previous architectural or engineering contracts with the City of Modesto.

B. ANALYSIS:

6. Originality, creativity, and soundness of approach to problem solving and analysis of design requirements.

7. Demonstrated management and organizational ability as relates to time management, scheduling, City staff/client relationships, etc., and the ability to meet deadlines.

8. Ability to execute complete, clear, and concise reports and produce a quality work product.

C. GENERAL:

9. Size of firm and available staff appropriate to study size.

10. Location of firm in relation to City of Modesto and project size.

11. General comprehension of the study assignment and responsiveness to special study requirements.

12. Demonstrated understanding of community social relationships such as citizen and environmental concerns, energy conservation, ecological and economic considerations.

13. Firm reputation as relates to principles, credibility, and attitude.

AWARD OF AGREEMENT:

Negotiations will begin with the firm deemed most qualified. If agreement cannot be reached in negotiations, the City will begin negotiations with the firm that is judged to be next most qualified. If the City determines to award the agreement, a Professional Services Agreement shall be sent to the successful consultant for the consultant’s signature. No proposal shall be binding upon the City until after the agreement has been signed by duly authorized representatives of both the consultant and the City. The City reserves the right to reject any or all proposals, and to waive any irregularity. The award of the agreement, if made by the City, will be based on a total review and analysis of each
proposal and interview. The consultant will be required to submit insurance verification as noted in the standard contract prior to execution of the contract.

CONFLICT OF INTEREST:

The City’s Conflict of Interest Code requires that consultants file a Statement of Economic Interests, when the consultant provides information, advice, recommendations or counsel to the City. Before the City enters into a contract for services with the selected firm, the firm will be required to report economic interest on the following:

1. Real Property Interest (geographically limited)
2. Sources of Income
3. Business Positions
4. Business Investments

REPORT SCHEDULE:

The anticipated milestones for this report are as follows:

<table>
<thead>
<tr>
<th>MILESTONE</th>
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</thead>
<tbody>
<tr>
<td>Issue Request for Proposals (RFPs)</td>
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<td>TBD</td>
</tr>
<tr>
<td>Award Contract</td>
<td>TBD</td>
</tr>
</tbody>
</table>

If you have any questions, please contact me at (209) 577-5215.

Sincerely,

Richard Ulm
Deputy Director
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-91

A RESOLUTION ACCEPTING THE PROJECT TITLED “AIRPORT DISTRICT REPLACE WATER MAINS” AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled “Airport District Replace Water Mains”, has been completed by Dell Engineering, in accordance with the contract agreement dated June 5, 2001,

NOW, THEREFORE, BE IT RESOLVED that the “Airport District Replace Water Mains” project be accepted from said contractor, Dell Engineering, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $205,563.32 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(S Seal)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
A RESOLUTION AUTHORIZING STAFF TO NEGOTIATE AN AGREEMENT WITH ECONOMICS RESEARCH ASSOCIATES TO RE-EXAMINE OPTIONS FOR THE CITY OF MODESTO GOLF PROGRAM AT A COST NOT TO EXCEED $20,000.

WHEREAS, in 1998, the City of Modesto hired Economics Research Associates (ERA) to conduct a management audit of the City of Modesto Golf Program, and

WHEREAS, in order to minimize the fiscal impact to the General Fund and to maximize the City’s investment in the Golf Program infrastructure, staff is recommending that the management options for the Golf Program be re-examined, and

WHEREAS, inasmuch as ERA performed the first audit and already has the background information needed to complete a revised audit, staff feels that this firm is the most qualified, and

WHEREAS, staff feels that an agreement with ERA can be negotiated at a cost not to exceed $20,000, and

WHEREAS, funds are budgeted in the Parks, Recreation and Neighborhoods Department’s Administration budget through carryover reserve (0100-300-3001-8099), and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to authorize staff to negotiate an agreement with Economics Research Associates to re-examine options for the City of Modesto Golf Program at a cost not to exceed $20,000,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby authorizes staff to negotiate an agreement with Economics
Research Associates to re-examine options for the City of Modesto Golf Program at a
cost not to exceed $20,000.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 25th day of February, 2003, by Councilmember Conrad,
who moved its adoption, which motion being duly seconded by Councilmember Fisher,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Jackman, Keating, O'Bryant,
Mayor Sabatino

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-93  

A RESOLUTION AWARDING A CONTRACT TO ALTA PLANNING AND DESIGNS OF BERKELEY, CALIFORNIA FOR PROFESSIONAL SERVICES TO UPDATE THE MODESTO NON-MOTORIZED TRANSPORTATION MASTER PLAN AT A COST NOT TO EXCEED $77,320, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, in July 1996, the City Council adopted the Modesto Non-Motorized Transportation Master Plan ("Plan"), which describes a comprehensive system of on- and off-street non-motorized transportation facilities, and

WHEREAS, this Plan needs to be updated to reflect the growth of Modesto and to capitalize on efforts to revitalize the downtown area and to emphasize bicycle and pedestrian safety, and

WHEREAS, in order to plan for projects to be implemented over the short- and long-term, an update to the Plan is needed, and

WHEREAS, following the City’s standard RFP process, a three (3) member panel determined that Alta Planning and Design of Berkeley, California was the most qualified firm to complete this project, due to their experience in non-motorized transportation planning, and

WHEREAS, Alta Planning and Design has agreed to provide the services outlined in Exhibit “A” attached hereto and incorporated herein by reference at a cost not to exceed $77,320.00, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to award a contract to Alta Planning and Design for professional services to update the Modesto Non-Motorized Transportation Master Plan, at a cost not to exceed $77,320.00,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of a contract to Alta Planning and Design for professional services to update the Modesto Non-Motorized Transportation Master Plan, at a cost not to exceed $77,320.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
EXHIBIT A: WORK PLAN AND BUDGET

The Alta Planning + Design Team offers the best combination of local, state, and national knowledge and understanding of non-motorized planning, design, and implementation. We will employ our experience in tailoring a Non-Motorized Transportation Master Plan Update for the City of Modesto that will support the increased use of bicycles for commuting and recreation, enhance the environment for pedestrians, and improve safety for all non-motorized users. The Alta team will develop an updated plan that is innovative, progressive, and responsive to the desires of the community. The proposed Project Schedule is provided following the Work Plan.

TASK 1: ORGANIZATION AND SCOPING MEETING

Alta team members will attend a kick-off meeting with the project manager and key City staff to:

- Review the project purpose and intent;
- Review scope of services and work plan approach;
- Gather or identify available background data and documents;
- Establish consultant team meeting, public outreach, and presentation schedule;
- Establish communication channels with other City departments and stakeholders;
- Review and list State and Federal required elements; and
- Review and list applicable design and planning standards.

Changes to the Scope of Work will be made (if necessary) at the conclusion of this effort, and an amended Scope of Work and schedule will be prepared. Initial contacts will be made with other appropriate agencies and groups including:

- Community Development Department and Engineering and Transportation Department staff
- School district representatives
- Local advocacy groups
- Caltrans
- Stanislaus County
- Others (as agreed upon during scooping meeting)

The purpose of these contacts will be to explain the goals and objectives of the Plan Update, identify and collect resources such as plans and maps, listen to each group’s interests and concerns, and develop channels for future communication.

Task 1 Deliverable:
One Kick-off Staff Meeting
Final Detailed Scope and Schedule
TASK 2: TECHNICAL ADVISORY COMMITTEE

 Alta will work with the City’s Technical Advisory Committee (TAC) for the Plan Update, consisting of City staff, representatives from other affected agencies or organizations (e.g. Modesto Irrigation District), and representatives from local trail and bicycling advocacy groups. The TAC will be active throughout the Update process in providing input and feedback on recommended improvements, and will review and comment on major work products as they are produced by Alta.

Task 2 Deliverable:
Preparation of materials for and attendance at TAC Meetings (assume four (4) TAC meetings over the course of the project)

TASK 3: REVIEW EXISTING PLAN AND ASSESS CURRENT NON-MOTORIZED TRANSPORTATION NEEDS

The Alta team will review the 1996 Modesto Non-Motorized Transportation Master Plan in context of the City’s current non-motorized transportation needs. Alta will update existing conditions and background information, review the status of projects recommended in the 1996 Plan, and evaluate the Master Plan in relation to the City’s General Plan and other policy documents. The Alta team will conduct field observations to assess the adequacy of existing conditions for non-motorized transportation, analyze accident and traffic data, and prepare updated bicycle use projections. Following this review, we will prepare a report of our findings, including updated background information, to City staff.

3.1. REVIEW PLAN GOALS

Alta will work with staff to review and amend (as needed) overall goals for the Plan Update building on the 1996 Plan goals.

3.2. UPDATE BACKGROUND DATA

The Alta Team will update existing conditions information, including development patterns in the City, existing commuting patterns and bicycle use (from 2000 Census data), major destinations, transit service, key opportunities and constraints, and major planned facilities.

3.3. POLICY CONTEXT

Alta will review the 1996 Master Plan as it relates to the Modesto General Plan to determine if existing City policies provide adequately for the development of non-motorized transportation facilities. We will identify any modifications needed, to either Master Plan policies or General Plan policies, to ensure consistency between the documents and to promote the development of roadway and trail facilities Modesto that effectively accommodate non-motorized users.

3.4. REVIEW EXISTING AND PROPOSED NON-MOTORIZED TRANSPORTATION NETWORK

The objective of this task is to review the existing citywide non-motorized transportation network to ensure that it connects to all major destinations, linkages, transit hubs, and neighborhoods via streets and trail
corridors that are comfortable and acceptable for all level of cyclists. We will determine the adequacy of the
existing non-motorized transportation facilities for the following criteria:

- Safety;
- Connectivity;
- Completeness of network;
- Ability to serve work centers, shopping, residential areas, parks, schools, civic buildings, community
centers, transit links, and other important destinations;
- Accessibility;
- Convenience; and
- Ability to serve the needs of different types of bicyclists, pedestrians, and other non-motorized users.

We will identify gaps in the system and areas of the city that are not well served. We will also identify the
needs of the various users that are not well served. We will work with City staff and TAC members to
develop a list of corridors and locations that merit greater attention to implementation.

3.5. TAC MEETING TO DISCUSS EXISTING NETWORK

A primary goal of the initial TAC meeting will be to obtain feedback on the functionality of the existing non-
motorized network, to identify any problem areas, and begin to compile recommendations and suggestions
for improvements to the system. TAC comments will be incorporated into the existing conditions report.

3.5. FIELD REVIEW AND EVALUATION OF EXISTING ROUTES

Alta will perform a field review of existing non-motorized transportation routes in Modesto. We will rely on
City staff and TAC members to direct us to existing routes and other specific areas for detailed field review.
Field investigations will be documented using field notes and digital photography. Alta will develop a photo
and informational database of important field observations, documenting key features of the existing facilities,
including roadway cross-sections, travel lane widths, type of bicycle facility, observed level of use, condition
of facility, and key gaps or other obstacles.

3.6. ANALYZE ACCIDENT DATA

The Alta team will review available bicycle accident data compiled by the City for the last three years. We will
look at the volume of accidents, their locations, and compare accidents on a per capita basis. Information
derived from this analysis will be used to identify specific locations that require improvement, plus possible
enhancements in motorist, bicyclist, and pedestrian awareness and educational programs.

3.7. ANALYZE TRAFFIC DATA

The Alta team will collect traffic count data from the City of Modesto and identify the level of service on
existing bike routes at key study intersections as well as at the mid-block level. Traffic data will also be
compiled for other key facilities as well. This data will be utilized during the development of network
alternatives to determine the appropriateness of different types of non-motorized facilities on specific
roadway segments or at specific crossing locations.
3.8. UPDATE BICYCLE USE PROJECTIONS

Alta will provide updated estimates of existing and projected numbers of bicyclists using our Bicycle Demand Model. Using this model, Alta will establish a baseline of bicycle commuting in Modesto, including: 1) employed adults; 2) school children; 3) college students; 4) bike transit users; and 5) persons making utilitarian (shopping) trips. This information will provide the most accurate estimate of existing bicycling possible. Alta will present all projections in a clear and organized format, readily understood by policy decision makers and funding agencies.

3.9. EXAMINE EXISTING PROGRAMS

The Alta team will gather information on existing bicycle/pedestrian education and marketing programs in Modesto. We will collect information regarding enforcement policies of the Modesto Police Department, and will analyze the adequacy and effectiveness of these programs, in compliance with Bicycle Transportation Account bicycle plan requirements.

3.10. REVIEW POLICIES, GUIDELINES AND EDUCATION PROGRAMS

Alta will review the policies, guidelines, and educational programs outlines in the 1996 Plan and identify any language that needs to be amended or supplemented as part of Task 5 (Draft Plan preparation).

Task 3 Deliverable:
Report of Findings on Existing Master Plan and Non-Motorized Transportation Needs
  Updated background information
  Assessment of existing/recommended routes
  Accident analysis
  Updated bicycle use projections

TASK 4: PUBLIC PARTICIPATION

The City of Modesto is committed to public input in the Non-Motorized Transportation Master Plan Update process. Therefore, it is of prime importance for this project to build consensus through a public involvement process. The public involvement process will give community members an opportunity to share their vision of a non-motorized plan for their city. As outlined in the RFP, there will be three (3) workshops set up for the general public. MIG will facilitate the first two public workshops, and Alta will lead the final workshop. Alta team members will be present at all workshops to assist with the presentation of technical information.

The community workshops will be structured to ensure clear understanding of the issues and opportunities associated with the project, the options available and their impacts, and preferred visions and strategies. Workshop formats will be fixed or flexible, as appropriate. Each workshop will be designed to meet identified goals, with activities including, but not limited to: informal presentations or progress reports, large or small group discussions, group brainstorming, individual or group feedback exercises, and prioritization or ranking of community preferences. Workshops can also be designed to accommodate multi-languages.
4.1. PRE-WORKSHOP PREPARATION AND PUBLICITY

MIG will work with City staff and the project team to identify and focus workshop objectives and design workshop processes and agendas accordingly. MIG will provide input for agendas and prepare comment sheets on which participants can record their ideas, concerns and suggestions.

To announce the workshop, MIG will design a workshop announcement flyer. This flyer can be mailed to residents or community groups by the City; can be posted by the City to its website; can be sent by the City or Alta by e-mail to existing bikers' clubs or organizations; and placed as an ad in the local newspaper by the City. The Alta team will provide one (1) camera-ready and one (1) electronic copy of the flyer to the City.

4.2. FIRST PUBLIC WORKSHOP

Project Introduction and Identification of Issues, Concerns, Opportunities and Vision. The purpose of the first workshop is to introduce the project to the community; explain the purpose and objectives for the project; and identify the community's issues, concerns, goals and visions for the project.

4.3. SECOND PUBLIC WORKSHOP

Presentation of Updated Plan. At the second workshop, the Alta team will present the major components of the proposed Non-Motorized Plan Update to the community for review and evaluation.

4.4. THIRD PUBLIC WORKSHOP

Final Plan Presentation. The third and final workshop will be held to present the final Plan to the community.

In order to ensure productive outcomes, each community workshop will involve the following subtasks:

WORKSHOP FACILITATION AND GRAPHIC RECORDING

MIG will facilitate and record each workshop using a key feature of all MIG meetings—"facilitation graphics," which combines the group leadership skills of a trained facilitator with the "language" of graphic notetaking. Particularly effective in large group settings, this technique encourages free thinking and the rapid generation of ideas. Participant comments and questions are recorded in text and graphics on wall-sized sheets of paper. These "wallgraphics" help to establish the group's memory of both the flow and content of discussions. This method of meeting facilitation encourages interaction and cooperative participation, and leads to group consensus because participants are able to visualize their ideas and build upon each other's comments. These wallgraphics will be photoreduced, summarized, and included as part of the workshop summary report.

POST-WORKSHOP REPORT

Based on the discussion at each workshop and the wallgraphic documentation, MIG will produce a summary report of the results of each workshop. One (1) camera-ready copy of the report, with one (1) camera-ready original of the wallgraphic reductions, will be provided to Alta staff for incorporation into the Plan document.
OTHER OUTREACH EFFORTS

As a part of our public outreach effort we will take advantage of local- and Central Valley-based experts such as the Great Valley Center and the Local Government Commission. These local nonprofit organizations have long-standing interest in transportation and community design. Through our professional contacts at these organizations we can obtain contact information to gather additional public input and support for the update of the City of Modesto Non-Motorized Transportation Plan. In addition to providing contact information, these organizations may be willing to assist in publicizing project meetings to their membership and provide local knowledge that will assist us in appropriately prioritizing projects for implementation.

Task 4 Deliverables:
Notification Flyers for all meetings
First Public Meeting (after review of Existing Plan)
Second Public Meeting (after development of Updated Network)
Final Public Meeting (after development of Final Preferred Plan)
Workshop Graphics and Post-Workshop Reports

TASK 5  DEVELOP UPDATED NETWORK

With the information collected during the existing plan review and needs assessment task, with input from the TAC, and with input from the First Public Meeting, Alta will hold a meeting with City staff and the TAC to outline the elements that require update, amendment, or expansion as part of the Non-Motorized Transportation Master Plan Update. Following this meeting, Alta expects to have a solid grasp of what the Updated Non-Motorized network will look like, and we will then move forward on developing detailed cross sections and other components of the Plan. We will strive to develop an Updated network and Plan that provides:

- **Connectivity** - provide connectivity between existing sidewalks, routes, lanes, or paths. Major gaps and barriers, including narrow roadway segments, should be targeted as high priority items.
- **Multi-Modal Coordination** - take advantage of multi-modal connections, including bus transfer stations and transit terminals and shuttles to major destinations.
- **Accessibility** - be accessible from residential neighborhood and connect to major destinations, including Modesto Junior College, downtown, parks, community centers, employment centers, schools, and commercial centers. Existing and future activity center maps will be used to identify any changes in the location of major destinations in the region, including transit centers, employment centers, entertainment venues, and other destinations.
- **Convenience** - provide reasonably direct routes from residential areas to major destinations.
- **Aesthetics** - both recreational and commuting users prefer to ride along streets and through areas that are shaded, have visual relief, or offer other visual amenities.
- **Usage** - serve the greatest number of commuters and recreational users possible, focusing on major destinations. Potential usage will be determined through field observation, surveys, and feedback from staff and the Steering Committee.
- **Safety** - provide the highest level of safety possible while mitigating major safety concerns such as narrow roadway segments. This will be determined through discussions with staff, field observations, and the accident analysis. We will also identify high vehicular traffic locations and present the opportunities and constraints associated with the proposed bike and pedestrian vis-à-vis general circulation.
- **Planned Roadway Improvement Projects** - take advantage of planned roadway improvements that may accommodate bicycle facilities with relatively little additional cost.
EXHIBIT A: Work Plan for Modesto Non-Motorized Transportation Master Plan Update

All proposed bikeway facilities will be described by the classification system developed by Caltrans in Chapter 1000: Planning and Design of Bicycle Facilities, by AASHTO in a “A Policy on Geometric Design,” and by the latest research conducted by FHWA on bikeway planning and design. The Caltrans classification system consists of the following categories:

- Bike Paths (Class I): bicycle or multi-use paths separate from roadways, with at-grade or grade-separated crossings
- Bike Lanes (Class II): striped bicycle lanes, typically on the right-hand side of roadways
- Bike Routes (Class III): roadways that provide adequate shoulder or curb lane width and signing, but no striping

For liability, funding, and other purposes, we propose to use this classification system for this study. Due to the differing needs of recreational/family cyclists and commuter cyclists, we will attempt to develop a network that provides a balanced network of on- and off-street facilities.

We will describe the classification of each of the recommended routes, their starting and ending points, as well as the destinations and neighborhoods they will serve. We will work with the City and TAC to develop creative identifiers for major routes, with possible features such as unique signage directing cyclists to key destinations in the city. We will propose typical cross-sections of each of the recommended on-street or off-street routes, including typical lane widths and restriping that would be needed. We will describe any paving, striping, signage, and other improvements needed to create each of the bikeways. We will also prepare a general cost estimate for each bikeway for discussion purposes with City staff and at the Second Public Workshop.

The Updated Modesto non-motorized transportation system will also be planned to link up to bikeways in the neighboring cities of Riverbank and Ceres, as well as neighboring unincorporated areas consistent with the Stanislaus County Regional Bicycle Action Plan.

Specific Components of the Update Plan will include:

5.1. IDENTIFY PROJECTS

With input from the First Public Meeting and TAC/City staff meetings, Alta will identify an Updated Non-Motorized Transportation Network. For the Updated Network, Alta will prepare a detailed spreadsheet listing the bicycle and pedestrian improvements and describing key characteristics of each proposed route. We will develop project sheets for the top priority projects drawing from the spreadsheet and cost estimates. As part of this process, we will work with the City and TAC to creatively identify routes to and from major destinations. Where possible, we will attempt to distinguish between commuter and recreational routes. Elements of such routes may include unique signage styles/logos, destination and mileage identifiers on signs, unique stencils, and designation on trail/bikeway maps. We expect to work closely with the City and TAC to refine these suggested concepts into a workable bikeway system for Modesto that will help to increase awareness of cycling, improve safety, and increase non-motorized trips.

5.2. ROUTE MAPPING

Proposed Updated Network routes will be identified on large-scale City maps for discussion purposes at TAC/staff and public meetings. These maps will be reduced for inclusion in the Draft Plan Update report,
and will form the basis of the Trail Map prepared in Task 7. We assume that the City will provide Alta street centerline files in GIS or AutoCAD format for base mapping.

5.3. CROSS SECTIONS

We will prepare detailed cross-sections for typical segments of major unique projects identified in the Updated Plan. These cross sections will provide a template for the future development of project segments, and will show right of way, setbacks, trail/bikeway width, roadway lane/parking widths for on-street segments, landscaping, fencing, and other amenities. Cross sections will be produced to scale to allow for use in a variety of applications including discussion with engineering and other technical staff, enlargement for public meetings, and inclusion in the final Updated Plan document. Alta proposes to develop up to 30 unique cross-sections as part of this Work Plan. It is assumed that many on-street segments will be similar and can be identified by typical cross-sections for a particular roadway width/classification.

5.4. SIGNAGE

Alta understands that the City is currently working with a consultant to prepare a uniform trails signage package. Alta will conduct one (1) review of the proposed plan and make comments related to its functionality for non-motorized users. We will also recommend, if necessary, additional signage that may be beneficial to bicyclists, such as route identification, destination, or mileage.

5.5. SITE AMENITIES

Alta will describe the extent of existing support facilities and identify recommended improvements and standards. In addition to signage, support facilities for non-motorized transportation routes will include signal loop detectors, lighting, benches and drinking fountains, bicycle racks and lockers, and shower facilities. Support facilities will be inventoried for the system through available data and field observation. Support facilities will also be described and classified whenever possible. For example, the Bicycle Federation of America defines bike lockers as Class I, covered locking racks as Class II, and exposed racks as Class III.

5.6 CROSSING ENHANCEMENTS

As part of the Updated Network, the Alta team will develop specific recommendations to improve the environment for non-motorized users at intersections and other roadway crossings. We will propose specific improvements and prepared detailed project sheets for the highest priority locations. Recommendations may include such crossing enhancements as:

- New or enhanced crosswalks
- Refuge islands
- New signals
- Improved signage or pavement markings
- Curb extensions
- In-pavement flashing markers
- Countdown signals
- Wider sidewalks
- ADA ramps or improvements to existing ramps

5.7. TRAFFIC CALMING

The non-motorized transportation environment can often be enhanced with various traffic calming techniques. For the Preferred Network, the Alta team will recommend traffic calming measures if and where they appear to be appropriate. Before preparing such recommendations, we will consult with the City to
identify the types of situations and the types of traffic calming devices that are most applicable. The Alta team has extensive experience in the development and application of traffic calming tools and techniques. The "toolbox" of traffic calming measures that may be applied in Modesto may include: curb extensions; chicanes; chokers; medians; traffic circles and roundabouts; raised crosswalks; speed humps; staggered parking; forced-turn islands; traffic diverters; or street closures. Any recommended traffic calming measures will be identified as part of the recommended network, and will be included in cost estimates for specific segments.

5.8. MAINTENANCE PROGRAM

Alta will include in the Draft Plan a detailed maintenance standards for both on- and off-street bikeways. Alta has considerable experience developing bikeway and trail maintenance programs in cooperation with a broad range of agencies. We can draw from this experience to provide the City with standard maintenance procedures and agreements that will enable greater ease of implementation when working jointly with other local jurisdictions (e.g. Modesto Irrigation District). Specific maintenance cost mechanisms (such as Adopt-a-Trail) will be discussed in Task 5.10, Financial Plan.

5.9. CONSTRUCTION AND MAINTENANCE COST ESTIMATES

Alta will prepare cost estimates using a spreadsheet developed for this project listing detailed information on each proposed segment length, corridor conditions, and other information. The costs will be separated out between land cost (if any), site preparation, planning, design and engineering costs, construction costs, and environmental documentation/mitigation costs (if any). Alta will use the latest unit costs experienced by the Modesto Parks, Recreation and Neighborhoods Department.

Each segment will also be evaluated according to an estimated cost-per-mile and estimated on-going maintenance and operation costs by implementation phase based on comparable experiences. Departmental responsibility will also be identified, as will the relationship to possible funding and other specific requirements.

5.10. IMPLEMENTATION AND FINANCE MECHANISMS

RANKING OF IMPROVEMENTS

The recommended programs and improvements will be ranked according to general planning criteria and submitted to the TAC for review and comment. A decision matrix will be used to attach weights to each criterion and determine which recommendations meet the highest number of criteria listed. These criteria will consist of those listed below and others developed with staff.

a. Closure of critical gap or correction of a bottleneck in existing system;
b. Improvement or program that serves an immediate safety need;
c. Segment which will attract high usage;
d. Current availability and/or suitability of right of way;
e. Service to a previously neglected part of Modesto;
f. Cost effectiveness;
g. Projected reduction in vehicle trips and vehicle miles traveled;
h. Integration into the existing regional bikeway system;
i. Interface with other modes; and
j. Local political and community support.
EXHIBIT A: Work Plan for Modesto Non-Motorized Transportation Master Plan Update

The recommended programs and improvements will next be evaluated according to very specific criteria listed in funding sources such as TEA-21 and TDA Article 3 bulletins. Each source requires a different type of project and documentation of impacts and benefits. Because of this, the selected routes or improvements will be developed in sufficient detail to qualify for the most stringent program requirements. Other criteria to be applied from TEA-21 includes an emphasis on commuter routes, coordination with adjoining community bikeways, coordination with other modes (transit), a completed and adopted bikeway plan, compatibility with the Regional Transportation Plan, use of multiple sources for funding, and meeting Chapter 1000 guidelines of the Caltrans Highway Design Manual. Our team will work closely with the staff and TAC throughout the selection and ranking process, lending expertise on funding, planning, and design guidelines when required.

PHASING
A Phasing Plan will be developed based on the ranking outcome combined with (a) funding availability and requirements, (b) other programmed transportation improvements, (c) eliminating an immediate bottleneck or safety hazard, and (d) ensuring that the system grows rationally rather than as a series of disconnected pieces over time. The Phasing Plan will recommend a ranking (short-term, immediate-term, and short-term) to complete a system over the next 10 to 20 years.

FUNDING REQUIREMENTS
Alta will identify potential matching and major funding sources, compile criteria and requirements, assist with completing applications, design this study to serve as an appendix to the funding application, and relate the anticipated schedule of funding to the prioritized list of segments. Costs of the phased improvements will be compared with funding needs, so that long term programming for local matching funds can be accomplished. We will recommend all appropriate funding options, which may include:

a. Local public works and parks and recreation Capital Improvement Project budgets
b. State agencies (Bike Transportation Account and Transportation Development Act Article 3
c. Federal government -TEA-21 (composed of eight separate funding sources
d. Non-profit organizations
e. Corporate sponsors
f. Zoning requirements
g. Development fees
h. Air quality grants

FINANCIAL PLAN
Based on the recommended phasing schedule, findings of regional significance, cost information, and funding opportunities, we will produce a final Priority List and 20-year Financial Plan that clearly identifies the funding requirements by year for the life of the plan. This will include estimates of operating and maintenance costs that are usually borne by local governments.

Funding for on-going operational and maintenance costs is often a key concern related to trail development. Alta will outline a variety of programs that could potentially be used to fund on-going trail maintenance, ranging from the formation of community assessment districts to private sponsorship efforts such as Adopt-a-Trail programs.

Alta will also compile past expenditures on bicycle facilities and programs by the City of Modesto for use in future Bike Transportation Account applications.
5.11. UPDATED POLICIES, GUIDELINES AND EDUCATION

The Policies, Guidelines and Education element of the Plan Update will draw on Chapter VI of the existing Master Plan, consisting of policies, facility guidelines, and educational programs to support the non-motorized transportation in Modesto. We will update and amend the existing Policies section as appropriate. The Alta team can draw from our extensive work with many experienced public sector planning and engineering professionals to identify policies, guidelines, and programs appropriate for application in Modesto. Some key types of policies and programs may include traffic calming standards; pedestrian/bicyclist awareness campaigns; bicycle education; or safety enforcement.

5.12. PREPARE DRAFT PLAN

Alta will prepare up to one (1) photo-ready reproducible black-and-white copy, one (1) PDF format electronic copy, and one (1) color copy with graphics and large-scale maps of the Draft Non-Motorized Transportation Master Plan Update for City review. The document will include:

a. Title page
b. Table of contents
c. Executive summary
d. Intent and Requirements of Proposed Improvements
e. Relationship to 1996 Master Plan
f. Summary of Changes to 1996 Master Plan
g. Existing Conditions
h. Updated Non-Motorized Transportation Network (short-, intermediate-, and long-term)
i. Updated Policies, Guidelines and Education
j. List of tables, figures, and appendices
k. List of references and bibliography
l. Technical appendices

The Plan Update report will also include maps and graphics that depict facility improvements ranging from bikeways and bicycle parking to intersection improvements and signage. The Non-Motorized Transportation Plan Update plan will be prepared according to all requirements of California Streets and Highways Code 891.2 to enable the City to apply for Bicycle Transportation Account funds, as well as other transportation funds.

Following preparation of the Plan Update Report, Alta will hold a meeting with City staff and the TAC to outline key elements of the Draft Plan, including the network components, phasing recommendations and cost estimates.

Task 5 Deliverables:

TAC/Staff Meeting to Discuss Data collected during Task 1 and First Public Meeting Input
Updated Network
   Large-scale color map illustrating the proposed Updated Network
   Text descriptions of major recommended routes
   Cross sections for major unique routes
   General cost estimates
Draft Non-Motorized Transportation Master Plan Update, including all elements listed above and large-scale map of Updated Network for Second Public Meeting.
TAC/Staff Meeting to present Updated Network, Phasing Recommendations, and Cost Estimates (prior to Second Public Meeting)

TASK 6: ENVIRONMENTAL REVIEW

Alta will review the Initial Study and Negative Declaration for the 1996 Non-Motorized Transportation Master Plan. A new CEQA Initial Study checklist will be prepared for the Plan Update. Written explanations will be prepared for each environmental issue area, drawing on baseline information from the City of Modesto Master EIR where appropriate. Following completion of the Checklist, a recommendation as to the appropriate level of CEQA/NEPA environmental clearance for the Plan Update will be given (e.g. Negative Declaration, MND, EIR). Alta will note whether any additional technical study is required in order to make a conclusion about the environmental impacts of the Plan Update. Alta will prepare one (1) photo-ready copy and one electronic copy of the Initial Study checklist to City staff.

Task 6 Deliverable:
Initial Study Checklist and recommendation for further CEQA/NEPA documentation

TASK 7: TRAIL MAP/BROCHURE

Task 7 Deliverable:
Press Release to Notify Residents of Plan and Map Availability
Draft Trail Map/Brochure

TASK 8: FINAL PLAN AND PUBLIC HEARING

Alta will respond to City comments on the Draft Master Plan Update, brochure and Trail Map. We will prepare one (1) color copy of the Final Plan including fold-out maps, cross sections, and other design renderings, one (1) black-and-white reproducible copy, and one (1) PDF format electronic file on CD. For the Trails Map, we will make final corrections and changes, prepare the brochure for printing, and present one (1) original copy, one (1) electronic file, and GIS and AutoCAD files as appropriate.

Following completion of the Final Non-Motorized Transportation Plan Update and Trails Map, Alta staff will present a summary of the document and map to the Modesto City Council at a public hearing.
Task 8 Deliverables:
Final Non-Motorized Transportation Plan Update
Final Trail Map/Brochure
City Council Hearing
Meeting of Safety and Communities Committee
Meeting of Economic Development Committee

 TASK 9:  OPTIONAL WORK - PREPARE GRANT APPLICATIONS

As an optional task (not included in the proposed budget), Alta can prepare two applications for funding bicycle and/or pedestrian projects. Approximately two-thirds of Alta's applications have been successful in receiving funding. The work would include following all of the guidelines to fill out the application forms, including cost estimates, maps, and diagrams as needed. Prior to preparing these applications, Alta will advise the City as to the type of projects that are likely to be funded by specific funding sources.
# Modesto Non-Motorized Transportation Master Plan Update

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<td>8</td>
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<tr>
<td>4.4 Third Public Workshop</td>
<td>10</td>
</tr>
<tr>
<td>Task 5: Preferred Network and Draft Plan</td>
<td></td>
</tr>
<tr>
<td>5.1 Matrix Project</td>
<td>2</td>
</tr>
<tr>
<td>5.2 Mapping and Routes Descriptions</td>
<td>16</td>
</tr>
<tr>
<td>5.3 Cross Sections</td>
<td>4</td>
</tr>
<tr>
<td>5.4 Signage</td>
<td>2</td>
</tr>
<tr>
<td>5.5 Site Amenity</td>
<td>2</td>
</tr>
<tr>
<td>5.6 Corridor Enhancements</td>
<td>6</td>
</tr>
<tr>
<td>5.7 Traffic Calming</td>
<td>2</td>
</tr>
<tr>
<td>5.8 Maintenance Program</td>
<td>16</td>
</tr>
<tr>
<td>5.9 Cost Estimates</td>
<td>2</td>
</tr>
<tr>
<td>5.10 Implementation Program</td>
<td>12</td>
</tr>
<tr>
<td>5.11 Policies, Guidelines, and Education</td>
<td>2</td>
</tr>
<tr>
<td>5.12 Draft Plan</td>
<td>16</td>
</tr>
<tr>
<td>Task 6: Environmental Review</td>
<td></td>
</tr>
<tr>
<td>6.1 Initial DRAFT Checklist</td>
<td>2</td>
</tr>
<tr>
<td>Task 7: Draft Map/Preparation</td>
<td></td>
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<tr>
<td>7.1 Draft Draft Map/Preparation</td>
<td>2</td>
</tr>
<tr>
<td>Task 8: Final Plan and Public Hearing</td>
<td></td>
</tr>
<tr>
<td>8.1 Prepare Final Plan</td>
<td>2</td>
</tr>
<tr>
<td>8.2 Prepare Final Draft Map</td>
<td>2</td>
</tr>
<tr>
<td>8.3 City Council Hearing</td>
<td>8</td>
</tr>
<tr>
<td>8.4 Safety and Community Meetings</td>
<td>6</td>
</tr>
<tr>
<td>8.5 Economic Development Committee Meeting</td>
<td>6</td>
</tr>
<tr>
<td>Task 9: Total Hours</td>
<td>66</td>
</tr>
<tr>
<td>Total by Staff</td>
<td>$7,800</td>
</tr>
</tbody>
</table>

| Labor Total | $71,320 |
| Direct Expenses/Reimbursables | $1,000 |

**TOTAL BUDGET**

$72,320
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-94

A RESOLUTION ACCEPTING THE PARKS, RECREATION AND
NEIGHBORHOODS DEPARTMENT FUND DEVELOPMENT PROGRESS
REPORT FOR 2002.

WHEREAS, in recent years the City of Modesto Parks, Recreation and
Neighborhoods Department has faced an increase in the demand for services and the
prospect of dwindling resources, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods
Department, in an effort to be proactive in securing future funding for its parks, programs
and facilities, created a dedicated fund development function, and

WHEREAS, this action included hiring a Fund Development Specialist
responsible for securing grant funding and increasing co-sponsorships and donations, and
forming a Fund Development Team, and

WHEREAS, in the one year since the fund development function was established,
co-sponsorships and grant awards increased, alternate funding sources were identified,
and a proposed Strategic Funding Plan was developed, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods
Department submits for acceptance a Fund Development Progress Report for the year
2002, which outlines the department fund development efforts and achievements during
FY 2002-2003, and

WHEREAS, at its meeting on February 3, 2003, the Safety and Communities
Committee supported acceptance of the Fund Development Report for 2002,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Parks, Recreation and Neighborhoods Fund Development Progress Report for 2002, attached hereto as Exhibit "A" and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February of 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ________________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________________________
MICHAEL D. MILICH, City Attorney
Background:
In recent years, the Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for facilities and services and a decrease in funding for those facilities and services. Parks and recreation systems all over the country are facing the same challenges and others, including:
- Competition for scarce resources
- State and local budget shortfalls
- Dwindling alternate funding sources
- National focus on funding for public safety

Noting these trends nationally and locally, Modesto Parks, Recreation and Neighborhoods was determined to take these proactive steps in securing the future of its programs and reducing dependence on the General Fund:
- Increase co-sponsorship efforts
- Increase number of grant submissions
- Dedicate a “fund development” function

The department also created a new position dedicated to fund development. It is a one-year provisional position designated as an Administrative Analyst I, with the functional title: Fund Development Specialist. It was anticipated that the new position would be responsible to secure grant funding, as well as to increase co-sponsorships and donations from local businesses, organizations, community groups and individuals.

It was anticipated that the position would be “fiscally neutral” to the General Fund, securing enough new funding for existing programs and service credit off-sets to fully fund continuation of the position.

In addition, the Fund Development Specialist has explored alternative funding sources and best practices of other agencies. These studies have led to recommendations for staff training and development of new funding strategies.

This report outlines the fund development efforts and achievements of the Parks, Recreation and Neighborhoods Department over the last 12 months. It also contains brief discussions regarding future fund development activities.

Prepared by: Debbie Carlson-Gould
Fund Development Specialist
Parks, Recreation and Neighborhoods Department
1. **Grant Seeking and Grant Writing.**

Since February 2002, applications for the following grants have been submitted:

<table>
<thead>
<tr>
<th>Source</th>
<th>Project</th>
<th>Amount Requested</th>
<th>Amount Awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. American Rivers-NOAA</td>
<td>Removal of Denney Dam</td>
<td>$50,000</td>
<td>Notification pending</td>
</tr>
<tr>
<td>2. Caltrans Bicycle Transportation Account (December 2002)</td>
<td>VA Corridor Phases I and III</td>
<td>$1,195,000</td>
<td>Notification pending</td>
</tr>
<tr>
<td>3. Caltrans Bicycle Transportation Account (June 2002)</td>
<td>VA Corridor Phases I and III</td>
<td>$3,200,000</td>
<td>$0</td>
</tr>
<tr>
<td>4. Caltrans Community Based Transportation Planning Grant</td>
<td>Campus Connection Feasibility Study</td>
<td>$109,200</td>
<td>Notification pending</td>
</tr>
<tr>
<td>5. Great Valley Center LEGACI Grant</td>
<td>Neighborhood Nature Experience (Summer Park Program)</td>
<td>$9,000</td>
<td>$0</td>
</tr>
<tr>
<td>6. Habitat Conservation Fund</td>
<td>Removal of Denney Dam from Tuolumne River</td>
<td>$200,000</td>
<td>Notification pending</td>
</tr>
<tr>
<td>7. Land and Water Conservation Fund</td>
<td>Creekwood Park Picnic Shelter and other site amenities</td>
<td>$37,750</td>
<td>$36,531</td>
</tr>
<tr>
<td>8. Children and Families Commission funded by Prop 10</td>
<td>Sharp Park Playground Equipment</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>9. Prop 12 Per Capita</td>
<td>Graceada and Beyer Park Pavilions</td>
<td>$197,000</td>
<td>$197,000</td>
</tr>
<tr>
<td>10. Prop 12 Per Capita</td>
<td>Orville Wright Park Development</td>
<td>$932,000</td>
<td>$932,000</td>
</tr>
<tr>
<td>11. Public Health Institute/California Healthy Cities Technical Assistance Grant</td>
<td>Bicycle Safety</td>
<td>$18,000</td>
<td>$18,000</td>
</tr>
<tr>
<td>12. Recreational Trails Program</td>
<td>TRRP Non-motorized trail system</td>
<td>$200,000</td>
<td>Notification pending</td>
</tr>
<tr>
<td>13. Riparian and Riverine Habitat Grant</td>
<td>TRRP</td>
<td>$400,000</td>
<td>$0</td>
</tr>
<tr>
<td>14. Riparian and Riverine Habitat Grant</td>
<td>Peggy Mensinger Trail Enhancements</td>
<td>$41,411</td>
<td>$0</td>
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<tr>
<td><strong>Totals</strong></td>
<td></td>
<td><strong>$6,609,361</strong></td>
<td><strong>$1,203,531</strong></td>
</tr>
</tbody>
</table>
Upcoming Grant Opportunities in 2003

Government Sources

- Proposition 40
  On March 5, 2002, voters passed Proposition 40, the $2.6 billion "California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002" (2002 Resources Bond). The passage of Proposition 40 provided funds for local assistance grants.

  We expect the state to allocate $1.5 million in funding to the City of Modesto through the Per Capita Grant Program in FY 2003-2004. Modesto will also be eligible to compete for additional Prop 40 funds through the Murray Hayden Urban Youth Services Grant Program and AB 1481, Frommer - Urban Park Act of 2001 Grant Program.

- Land and Water Conservation Fund (Competitive Grants)
  Applications for funding through this source have been successful in the past. We plan to submit a request in May 2003 for a picnic shelter in Orville Wright Neighborhood Park.

- Caltrans- various (Competitive Grants)
  We are positioned to apply for Safe Routes to Schools and various non-motorized transportation funding.

- Habitat Conservation Fund (Competitive Grant)
- Recreational Trails Program (Competitive Grant; pending federal reauthorization)

Other Sources

- Great Valley Center-LEGACI Grant (Competitive Grants)
- Tony Hawke Foundation (Competitive Grants)
- Tiger Woods Foundation (Competitive Grants)

2. Sponsorships/Co-Sponsorships

   Over the last five years the amount of support from sponsorships and co-sponsorships has varied widely. Total values from cash and in-kind donations have averaged $66,000. The number of donating groups has varied from twenty-eight to fifty-eight groups. (Note: reporting has not been consistent department-wide.)

   In fiscal year 2003 to date, the department has secured over $107,000 in donations and co-sponsorships.

3. Legislative Requests

   Virginia Corridor Rails-to-Trails Project
   $13.7 million – TEA-21 Funding
   $1 million – Transportation and Community System Preservation Program
   $14.5 million – Legislative Request, Sponsor: Congressman Dennis Cardoza
   $2 million – Legislative Request, Sponsor: Senator Barbara Boxer
Partnership for Healthy Youth
(Citywide Junior High campus lunchtime recreation and education programs)
$100,000 – Legislative Request, Sponsor: Congressman Dennis Cardoza
$100,000 – Labor, Health & Human Services Appropriations Bill

Tuolumne River Regional Park Trail Development
$1,015,060 – TEA-21 Funding

Class I Trailhead Peggy Mensinger Trail and Dry Creek Regional Park
$3.5 million – TEA-21 Funding

4. Other Significant Funding Sources

McHenry Mansion Foundation
$48,750 – for improvements and furnishings at the McHenry Mansion

McHenry Museum Guild
$5,000 – for improvements to the McHenry Museum

Soft Drink Vending Machines
$25,000-$30,000 per year

Cell Tower Agreements
$194,000 per year

5. Strategic Fund Development Plan

In order to fully grasp the funding needs and activities of the department, the Fund Development Specialist conducted research and interviewed Parks, Recreation and Neighborhoods staff regarding budgets, current funding sources, types of projects, and goals. She met with local fundraising professionals to discuss local strategies and best practices, and conducted interviews and research of other municipalities and park districts regarding the most lucrative fund development practices of these agencies.

Key areas studied:
- Government grant sources
- Private and corporate grant sources
- Traditional fundraising activities, e.g. annual campaigns, special events, etc.
- Municipal marketing/corporate sponsorship
- Naming rights
- Fees and Charges
- Cause-related marketing
- Formation of non-profit park foundation
- Endowments
- Other private sector sources, e.g. Adopt-A-Trail, advertising, event sponsorship

Based on findings from these studies, and analysis of department resources, it became apparent that to make best use of fund development efforts, to maximize return on investment of staff time and other resources, a set of comprehensive fund development
strategies and practices would be needed. (See *Fund Development Strategies and Actions* and *Fund Development Policy Considerations*.)

6. **Fund Development Team**

In July 2002, a Fund Development Advisory Team was formed. In a collaborative forum, led by Fund Development Specialist, the team is responsible for addressing key topics related to fund development. The team format benefits the department through the pooling of knowledge, and by streamlining and coordinating the donation and sponsorship seeking processes.

The team has developed three important documents:
- Project Funding Needs Report ("master list" to aid in strategic fundraising efforts)
- Event Sponsorship Guidelines (with recommended staff training)
- Donor/Sponsorship Recognition Guidelines

Future functions of the team include:
- Centralize/coordinate all solicitations and recognition
- Develop solicitation materials
- Continually identify potential new funding sources and sponsors
- Recommend funding strategies and sources to fully realize funding potential

7. **Staff Development**

This section outlines staff development (continuing education) activities in various fund development topic areas.

**Fund Development Specialist Training**
- *Securing Your Organization's Future: Strategic Fundraising*
- *Selling More Sponsorship*
- *Association of Fundraising Professionals* - membership

**Other Staff Training**
- *Fund Development Overview* for all full time staff at Bi-Annual Staff Meeting (presented by Fund Development Specialist)
- *Private Sector Support*, including independent park foundations and endowments, for key management and program staff (presented by Bill Koegler, Oglebay Foundation)
- *Municipal Marketing* presentation for PRN Executive Team (presented by Pat Saign, Public Enterprise Group)
- *Maximize Event Sponsorship* for key program staff (planned for February 2003)

Through formal and informal means, Fund Development Specialist continues to emphasize to staff and management the importance of incorporating fund development strategies as major components in project and program planning.

8. **Modular DVD/Video Presentation**

Fund Development Specialist is coordinating the production of a new fundraising tool. This state-of-the-art DVD/video presentation will allow PRN division and activity-specific segments of the DVD/video to be viewed individually or to be combined with other segments for a fully customized presentation. This format is preferred because the user needs only one disk to prepare and present a variety of customized presentations.
suited to the needs of the presenter and audience. It also eliminates the need for multiple videotapes or power point presentations.

Use of this cutting edge technology will effectively promote the Parks, Recreation and Neighborhoods Department's activities to a variety of audiences, as well as reflect the creative and innovative spirit of the department.

Potential audiences:
- Service clubs and community groups (Rotary, Soroptomists, Omega Nu, etc.)
- Corporate/Private Foundation Boards of Directors
- Government grant program officers
- Estate planner associations
- Potential “Friends” groups
- Corporate sponsor/partner prospects (municipal marketing, naming rights, etc.)

In addition to serving as an exciting fundraising tool, this DVD/video presentation may also play an important role in the following areas:

Public Relations
- Schools
- Churches
- Service groups
- Community non-profit groups
- Modesto Public Access Channel
- Tradeshows
- Professional Conferences
- Park design workshops

Marketing
- Community and Economic Development
- Modesto Centre Plaza
- Convention and Visitors Bureau
- Golf Modesto
- John Thurman Field alternative events
- Neighborhood Services

Internal Uses
- Recruiting
- New employee orientation
  - City-wide staff
  - Parks, Recreation and Neighborhoods staff
- New Council Member orientation

9. Future Fund Development Functions
It is anticipated that current fund development efforts will be continued. However, discussion of new fund development strategies (See Fund Development Policy Considerations) should lead efforts in new directions.
A RESOLUTION ACCEPTING THE FUND DEVELOPMENT STRATEGIES AND ACTIONS AS RECOMMENDED BY THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT AND DIRECTING STAFF TO DEVELOP SPECIFIC FUNDING PLANS FOR CORPORATE SPONSORSHIPS/ MUNICIPAL MARKETING, NAMING RIGHTS, EXCLUSIVE VENDOR/OFFICIAL SUPPLIER AGREEMENTS AND FRIENDS OF PARKS FOUNDATION.

WHEREAS, in recent years the City of Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for services and the prospect of dwindling resources, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department, in an effort to be proactive in securing future funding for its parks, programs and facilities, created a dedicated fund development function, and

WHEREAS, this action included hiring a Fund Development Specialist responsible for securing grant funding and increasing co-sponsorships and donations, and forming a Fund Development Team, and

WHEREAS, in the one year since the fund development function was established, proposed Fund Development Strategies and Actions were developed, and

WHEREAS, the Fund Development Strategies and Actions recommend that staff provide the City Council with a more specific plan in the areas of Corporate Sponsorship/ Municipal Marketing, Naming Rights, Exclusive Vendor/Official Supplier Agreements, and a Friends of Parks Foundation as these plans are developed, and

WHEREAS the Fund Development Strategies and Actions further recommend that staff pursue an Asset Inventory and Asset Valuation, and
WHEREAS, at its meeting held on February 3, 2003, the Safety and Communities Committee supported acceptance of the Fund Development Strategies and Actions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Parks, Recreation and Neighborhoods Department’s Fund Development Strategies and Actions attached hereto as Exhibit “A” and incorporated herein by this reference.

BE IT FURTHER RESOLVED that staff is hereby directed to develop specific plans for Corporate Sponsorship/ Municipal Marketing, Naming Rights, Exclusive Vendor/Official Supplier Agreements, and a Friends of Parks Foundation and to provide the City Council with these plans as they are developed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February of 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: JEAN ZAHRI, City Clerk

APPROVED AS TO FORM
By: MICHAEL D. MILICH, City Attorney

02/25/03/PR&N/D Carlson-Gould 2 2003-95
Fund Development Strategies and Actions

Staff has been investigating new revenue sources in order to enhance and expand services to the public while minimizing impact on the General Fund. Staff has conducted extensive research and, in some cases, program development for these fund development activities.

Based on this research, the following list was generated. It catalogs current revenue generating activities. It also lists potential future strategies and actions (indicated by the designation “New”).

It should be noted that these strategies and actions would not and could not be implemented concurrently. The list is intended to illustrate all the means of fund development available to the Parks, Recreation and Neighborhoods Department.

Parks, Recreation and Neighborhoods
Fund Development Strategies and Actions

I. Government Grant Programs
   A. California State Bond Acts
      1. Prop 12
         a. Per Capita (non-competitive)
         b. RZH (competitive and non-competitive)
         c. Riparian and Riverine Habitat Program (competitive)
         d. Non Motorized Trail Program (competitive)
         e. Wildlife Conservation Board (competitive)
      2. Prop 40
         a. Per Capita (non-competitive)
         b. RZH (competitive and non-competitive)
         c. Murray-Hayden Urban Youth Services (competitive)
         d. AB1481, Frommer, Urban Park Act
   B. Other State Programs (competitive)
      1. Habitat Conservation Fund
      2. California Department of Transportation
         a. Bicycle Transportation Account
         b. Community Based Transportation Planning
         c. Safe Routes to Schools
      3. Integrated Waste Management Board
   C. Federal Programs (competitive)
      1. TEA-21
         a. Recreational Trails Program
      2. Land and Water Conservation Fund
II. Local foundation support/partnerships
   A. Current
      1. McHenry Mansion Foundation
      2. McHenry Museum and Historical Society
      3. Greater Modesto Tree Foundation
      4. Friends of Virginia Corridor
      5. Del Rio Foundation/1st Tee Program
   B. Potential
      1. Stanislaus Community Foundation
      2. Great Valley Center
      3. Bright Family Foundation
      4. Gallo
      5. Mary Stewart Rogers Foundation
      6. Central California Art League

III. (New) Private/Corporate Foundation Grants
   A. David and Lucille Packard Foundation
   B. The California Endowment
   C. Walter Hoss Foundation
   D. California Wellness Foundation
   E. Others...

IV. Current Fees and Other Charges
   A. Facility rental fees
      1. Park reservations/picnic areas
      2. Sports field reservations
      3. Building/hall rentals
      4. Equipment
   B. Recreation Fees
      1. Class registrations
      2. Parties
      3. Special event assistance
   C. Leases and Other Agreements
      1. Modesto City Schools (Tennis court maintenance)
      2. Cellular Phone Transmitter Towers
      3. John Thurman Field
      4. Salary reimbursement agreement (Museum and Mansion gift stores)
      5. Adult sports league fees
   D. Commercial landscape review fees
   E. Golf
      1. Green fees
      2. Concessions
   F. Modesto Centre Plaza facility rentals
   G. Compliance order fines (NPU)
   H. Interfund labor charges
V. *(New) Vendor fees*
1. Re-evaluate curbside vendor permits
2. Exclusive park system concession rights
3. Exclusive event/program concession rights

VI. **Other Private Sector Sources**
A. Park Partners
B. Service Clubs
C. *(New) Municipal Marketing/Corporate Sponsorship*
D. *(New) Adopt-A-Trail/Adopt-A-Park*
   1. Trail sections
   2. Amenities
      a. Benches
      b. Playgrounds
      c. Trailside interpretive signage
      d. Rest areas
      e. Kiosks
E. *(New) Exclusive “Official Supplier” agreements*
   1. Soft drinks
   2. Vehicles
   3. Equipment, etc

F. *(New) Naming rights*
   1. Potential facilities
      a. New parks
      b. New facilities
      c. Modesto Centre Plaza
      d. Golf Courses
      e. Community Centers
         1) New West Side Community Center
      f. Senior Center
      g. McHenry Museum
      h. McHenry Mansion
      i. McClure Country Place

G. *(New) Signage*
   1. Sports field scoreboards
   2. Backstops
   3. Concession areas
   4. Seats
   5. Fields and facilities (pools?)
   6. Special events

H. *(New) Advertising*
   1. Activity Guide
   2. Facility Guide
   3. Golf score cards
4. Trail maps
5. Vehicles and equipment

I. Program Sponsorship
   1. Children’s park programs
   2. Senior Center programs
   3. Teen recreation programs
   4. Adaptive recreation programs
   5. Adult recreation
   6. Party!Mobile

J. Special Event Sponsorship
   1. Celebration of Lights Parade/Tree Lighting
   2. First Sundays!
   3. (New) Museum exhibits
   4. Friday Night Out
   5. Brown Bag Lunch Concerts
   6. More… see Activity Guide

K. (New) Cause-Related Marketing
   1. Neighborhood Preservation
   2. Water conservation
   3. Environmental protection

VII. (New) “Friends of Parks” or Park Foundation
     (Vehicle for accepting gifts and establishing endowments)
     A. Fundraising Campaigns
        1. Annual campaign
        2. Major gift campaign
        3. Endowments
        4. Planned giving

VIII. (New) Merchandise (fund development plus marketing!)
      A. Apparel
      B. Postcards
      C. Calendars

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, by Resolution No. 92-129, adopted March 24, 1992, the City Council acknowledged “Earth Day in the Park” as an annual event, and

WHEREAS, the Citizen’s Advisory Committee on Recycling (CACOR) sponsors the event, and the 14th Annual “Earth Day in the Park” will be held on Saturday, April 12, 2003, at Graceada Park, and

WHEREAS, “Earth Day in the Park Festival, 2002!” drew 92 vendors and an estimated 15,000 residents, and

WHEREAS, because the CACOR is an advisory committee to the City Council, the group’s ability to obtain event liability coverage is restricted, and City co-sponsorship of the event will allow provision of automatic coverage under the umbrella of the City’s existing insurance policy; and

WHEREAS, the City’s Risk Manager has assessed the scope of the event and determined it to be of minimal exposure to the City, and

WHEREAS, as in prior years’ events, the Committee seeks Council approval for the sale of merchandise in the Park during the event, and
WHEREAS, this event provides a forum for merchants to display and sell their “environmentally friendly” merchandise, and for the creation of a “festival atmosphere”, while giving the public an opportunity to make purchases of positive benefit to the environment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City hereby affirms its co-sponsorship of “Earth Day in the Park Festival, 2003!”, at Graceada Park.

BE IT FURTHER RESOLVED by the Council that it hereby approves the sale of merchandise at Graceada Park during the “Earth Day in the Park Festival, 2003!” event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:
By [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-97

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JOHN DE LA MORA FROM THE HOUSING REHABILITATION LOAN COMMITTEE, EFFECTIVE FEBRUARY 25, 2003

WHEREAS, JOHN DE LA MORA was appointed a member of the Housing Rehabilitation Loan Committee on July 25, 2000; and

WHEREAS, JOHN DE LA MORA has tendered his resignation from the Housing Rehabilitation Loan Committee, effective February 25, 2003; and

WHEREAS, JOHN DE LA MORA has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of JOHN DE LA MORA from the Housing Rehabilitation Loan Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to JOHN DE LA MORA for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O' Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:  

Michael D. Milich, City Attorney  

ATTEST: JEAN ZAHN, City Clerk
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DONNA POLITE
FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE FEBRUARY 25, 2003

WHEREAS, DONNA POLITE was appointed a member of the Community Qualities Forum on
May 15, 2001; and

WHEREAS, DONNA POLITE has tendered his resignation from the Community Qualities
Forum, effective February 25, 2003; and

WHEREAS, DONNA POLITE has been a devoted and sincere public servant and has contributed
greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of DONNA POLITE from the
Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and
on behalf of the citizens of this City, hereby expresses its sincere appreciation to DONNA POLITE for
her outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM: 

Michael D. Milich, City Attorney

ATTEST: JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-99

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM WETMORE FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE FEBRUARY 25, 2003

WHEREAS, WILLIAM WETMORE was appointed a member of the Community Qualities Forum on May 13, 1997, and

WHEREAS, WILLIAM WETMORE has tendered his resignation from the Community Qualities Forum, effective February 25, 2003, and

WHEREAS, WILLIAM WETMORE has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of WILLIAM WETMORE from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to WILLIAM WETMORE for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM: 

Michael D. Milich, City Attorney

ATTEST: Jean Zahr, City Clerk

2003-99
A RESOLUTION ESTABLISHING THE MODESTO CONVENTION AND VISITORS BUREAU (CVB) AS AN INDEPENDENT, NON-PROFIT CORPORATION AND ADOPTING THE BYLAWS AND ARTICLES OF INCORPORATION FOR THE MODESTO CONVENTION AND VISITORS BUREAU AS AN INDEPENDENT, NON-PROFIT CORPORATION.

WHEREAS, on June 25, 2002, the City Council directed staff to develop bylaws, complete articles of incorporation and to apply for non-profit status for the Modesto Convention and Visitors Bureau (CVB), and

WHEREAS, bylaws have been developed, and

WHEREAS, the Articles of Incorporation have been filed with the State of California, and

WHEREAS, the CVB has received its 501c(6) corporate status and is awaiting its tax-exempt status, and

WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to establish the Modesto Convention and Visitors Bureau as an independent, non-profit status and to adopt the bylaws and articles of incorporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby establishes the Modesto Convention and Visitors Bureau as an independent, non-profit status corporation.
BE IT FURTHER RESOLVED that the Council hereby adopts the bylaws and articles of incorporation, attached hereto as Exhibits “A” and “B”, respectively, and incorporated herein, as the bylaws and articles of incorporation of the Modesto Convention and Visitors Bureau.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of February, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 

JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
BYLAWS OF
MODESTO CONVENTION AND VISITORS BUREAU
A California Nonprofit Public Benefit Corporation

ARTICLE I

NAME

The name of this corporation is MODESTO CONVENTION AND VISITORS BUREAU (ABureau@)

ARTICLE II

PRINCIPAL OFFICE

The principal office of the organization for its transaction of business is located in Modesto, California.

ARTICLE III

OBJECTIVE AND PURPOSE

Section 1. The corporation is organized as a nonprofit public benefit corporation under Internal Revenue Code Section 501(c)(6) and California Revenue and Taxation Code Section 23701(e).

The objectives of the Bureau are as follows:

A. To attract visitors to the area by promoting and marketing Modesto as a convention, sports, tourism, and leisure travel destination.
B. To provide coordination and leadership for the community and the visitor industry on matters relating to convention activity and tourism.

C. To gather community information designed to convey to opinion leaders and the public at large the status of the visitor industry.

D. To work with local governmental units, private enterprise and other interested parties to structure suitable financing plans for the Bureau, and to implement those plans.

Section 2. Limitation. The Bureau shall be nonprofit and nonpartisan and shall not participate in or lend its support to the election of any candidate for public office.

ARTICLE IV
MEMBERSHIP

Section 1) Members. The corporation shall have no members within the meaning of the Nonprofit Corporation Law.

Section 2) Associates. The Bureau may refer to persons or entities associated with it as members, even though such persons or entities are not voting members. The term and condition under which such persons or entities are referred to as member shall be determined by the board of directors.

ARTICLE V
DIRECTORS

Section 1. Number. The authorized number of directors of the Bureau shall be seven (7). Each member of the City Council shall appoint one member to the Board of Directors. In addition there shall be three (3) ex-officio, nonvoting members of the board as follows:
$ The Modesto Centre Plaza Manager

$ A Modesto City Councilmember appointed by the Mayor

$ The Chief Executive Officer. The CEO and/or staff shall be ex-officio members of all Board committees.

Section 2. Designated Directors. Seven (7) of the directors shall be designated, holding office for four (4) years, and at the pleasure of their appointing body and until a successor has been designated and qualified. [The designated directors shall appoint three (3) additional At large@ directors.] The term of each director shall be four (4) years. No person shall serve more than two (2) terms as a director. Board members are eligible for re-appointment to the Board after a two- (2) year absence.

Section 3. The term of office shall be effective as of the first of January.

Section 4. Serving any portion of an unexpired term shall not be counted as service of one term. Members not eligible for re-appointment may continue to serve until their successors are appointed and meet all of the qualifications outlined in Article V, Section 8 of these Bylaws. No member shall serve more than a maximum of eight (8) consecutive years.

Section 5. The terms of office for the Board will be set to coincide with the term of office of their respective appointing City Council member. Each member=s term shall terminate on December 31 of his or her respective year.

Section 6. The members of the Board shall receive no compensation for the performance of their official duties.
Section 7. Appointments to fill vacancies on the Board shall be handled in the same manner as original appointments. When a vacancy occurs during a term, the appointment to fill such vacancy shall be for the unexpired portion of the term.

Section 8. Qualifications. The board of directors should be representative of business interest groups throughout the City including, but not limited to, the following business categories: hotel, restaurant, entertainment, travel, sports, retail, public relations, advertising, and marketing.

Directors shall be chosen without discrimination on the basis of race, sex, sexual preference, color, religion, age, national origin, income, marital status or handicap. Directors are expected to be actively involved and shall serve on committees and task forces as appointed by the President and approved by the board.

Section 9. The members of the Committee shall reside or have business interests or employment within the city limits of the City of Modesto at the time of appointment and must maintain residence/business interest/employment within the City at all times during their service on the Committee.

Section 10. Vacancies on Board. A vacancy on the board shall exist on the occurrence of the following:

A. Resignation. The resignation or death of any director;

B. Designated Seats. The declaration by a designating agency that the designation has been terminated;

C. Attendance. Unexcused absence from three (3) consecutive regular meetings in any twelve (12) month period shall result in the position being vacated. Excused absences shall
include illness, medical reasons, work related conflicts, and jury duty which shall be authorized provided that notification is given to the executive director or appropriate staff by telephone, facsimile, mail or e-mail at least 48 hours prior to such absence. In addition, attendance shall be recorded in the minutes of monthly meetings and such minutes shall be transmitted to the board of directors monthly.

D. **Termination.** A designated director who is also an elected official is no longer in office or unable to perform his or her public duty with the designating public agency;

E. **Qualifications.** The director no longer meets the qualifications set forth in these bylaws; or

F. **Expulsion.** The expulsion of any director upon a 2/3 majority vote of the board of directors.

An appointee of the majority of the directors shall fill any non-designated director vacancies occurring on the board of directors, by reason of any of the above-listed events. Such director, so appointed, shall hold office until expiration of the board term of the vacating officer.

Section 11. **Powers.**

A. **Board Direction.** Subject to the provisions and limitation of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, the corporation=s activities and affairs shall be managed, and all corporate power shall be exercised, by or under the board=s direction.

B. **Appointments.** The directors shall have the specific power to appoint and remove at the pleasure of the board, the chief executive officer (CEO)/executive vice-president,
to approve the compensation range and describe the powers and duties for that official consistent with the law, and to require a bond of any employee handling any monies of the organization.

C. **Contracts.** The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the corporation and such authority may be general or confined to specific instances.

D. **Loans.** No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by resolution of the board of directors. Such authority may be general or confined to specific instances.

E. **Payment of Monies.** All checks, drafts, and other orders of payment of money issued in the name of the corporation within budget shall be signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the board of directors.

F. **Deposits.** All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such depositories as the board of directors by resolution may direct.

**Section 12. Meetings.**

A. **Meetings.** Regular meetings of the board of directors shall be held at such times and places as from time to time may be designated by the president of the board. Special meetings of the board for any purpose or purposes may be called at any time by the president or by a majority of the directors. The time for regular meetings and special meetings of this corporation shall be provided for by board resolution or, if none, by the president.
B.  **Notice.** Written notice of the time and place of any regular or special meeting of the board of directors or the executive committee shall be delivered personally to each voting member of the respective body, or sent to each voting member by mail or other form or written delivery, charges prepaid, addressed to him or her at his or her address as it is shown in the corporate records, or by fax or e-mail, sent to him or her at the fax number or e-mail address shown in the corporate records. Any such notice shall be mailed, delivered, faxed or e-mailed at least seventy-two (72) hours before the date of a regular meeting, and at least twenty-four (24) hours before the time of a special meeting.

C.  **Brown Act Compliance.** All meetings of the corporation, whether of the board of directors or its committees and commissions, shall be held in conformity with the Brown Act, found at Government Code Section 54950 et seq. Accordingly, any and all meetings of the board of directors and the corporation=s committees and commissions to which the Brown Act applies, shall be open and public.

1.  **AMeeting@ Defined.** A Ameeting@ under the provisions of the Brown Act includes any congregation of a majority of the members of the board of directors, executive committee, or any other committee of the corporation to which the Brown Act applies, at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of any such body or the local agencies to which it pertains.

2.  **Notice.** Where required by the Brown Act, the board of directors of the corporation shall:
(a) Cause mailed notice of any regular meeting to be sent at least seventy-two (72) hours prior to the date set for the meeting to any and all persons who have filed a written request for that notice with the board of directors;

(b) Cause mailed notice of any special meeting to be given as deemed practical, provided it otherwise complies with Brown Act requirements, where the special meeting is called less than seventy-two (72) hours prior to the date set for the meeting to any and all persons who have filed a written request for that notice with the board of directors;

(c) Cause notice of any special meeting of the board of directors to be personally delivered or mailed to each local newspaper of general circulation, radio or television station requesting notice in writing, said notice, stating time, place and business to be transacted, to be received at least twenty-four (24) hours before the time of the meeting as specified in the notice;

(d) Cause notice of the date, time and location of any regular meeting, and an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, to be posted at least seventy-two (72) hours prior to the meeting in a location that is freely accessible to members of the public; and

(e) Cause notice of the date, time, and location of any special meeting to be posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to members of the public.

3. **Agenda.** Every meeting agenda mailed or posted shall provide an opportunity for members of the public to directly address the board of directors or executive committee on any item of interest to the public, before or during consideration of the item.
4. **Adjournment.** Where a meeting is adjourned, the time and place to which it is adjourned shall be announced at the time of adjournment, and the time and place so announced shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment. Written notice of said adjournment shall be given in the same manner as provided for special meetings under Article 5, Section C2, subsections b, c and e of these bylaws. Where a regular meeting or adjourned regular meeting is adjourned, the resulting adjourned meeting is a regular meeting for all purposes, including notice.

5. **Cancellation of Scheduled Meetings.** The president, with the concurrence of the chief executive officer, may cancel any scheduled meeting when in their opinion there is no policy matter requiring a full board meeting, or due to lack of quorum.

D. **Quorum.**

1. **Meetings of the Board of Directors.** At least half of the whole number of directors then serving on the board shall constitute a quorum for the transaction of business by the board of directors of the corporation, and every act or decision of a majority of the directors present at a meeting at which at least a quorum is present, made or done when duly assembled, shall be valid as the act of the board of directors. A majority of those present at the time and place of any stated or special meeting, although less than a quorum, may adjourn without further notice. When a quorum shall attend, any business may be transacted that might have been transacted at the meeting had the same been held on the day which the same was originally appointed or called. Should a meeting be held with less than a quorum present, any business transacted thereat may be advisory only and not valid as an act of the board of directors.
Every voting member or member of the board of directors shall have one vote for the transaction of business of the corporation, and the use of proxy votes is prohibited.

2. **Meetings of the Executive Committee.** The presence of a majority of the executive committee, together with the chief executive officer, at any executive committee meeting shall constitute a quorum.

E. **Waiver of Notice.** Providing there is no violation of the Brown Act, the transactions of any meeting of the board of directors or any committee or commission of this corporation, however called and noticed, shall be valid as though a meeting had been held after regular call and notice if a quorum is present and if either before or after the meeting each of the voting members not present signs a written waiver of notice, or a consent to holding this meeting, or an approval of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice. All of the waivers, consents, or approval shall be filed with the corporate records or be made part of the minutes of the meeting.

F. **Conduct of Meeting.** The president of the board, or in his or her absence, the vice-president, or in the absence of the vice-president, a chairperson elected by the directors present, shall call the meeting to order, and shall act as the presiding officer thereof.

G. **Minutes.** The chief executive officer of the corporation shall cause the minutes of all meetings to be recorded, and in his or her absence, the presiding officer may appoint any person to act as recorder. These minutes shall be promptly mailed to each member of the committee having met, and to each member of the board of directors of the corporation, and a copy shall be filed in the corporation office with the corporate records.
ARTICLE VI

OFFICERS

Section 1) Officers. The executive officers of the corporation shall be a president of the board, the immediate past president, vice-president, treasurer, and chief executive officer, who shall serve as the executive director of the corporation. In addition to the above-mentioned officers, the board of directors may appoint such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties and receive such compensation as the board of directors may from time to time prescribe. No one director may hold more than one position.

Section 2) Election. All officers, except the chief executive officer, shall be elected by the board of directors from their own number and shall hold office for one (1) year or until their successors are elected. There shall be no limit on the number of consecutive terms that a board member can hold an office, except as provided for by the board of directors.

Section 3) Compensation. The compensation of the chief executive officer shall be fixed by the board of directors. No compensation shall be given to the executive officers, except the chief executive officer.

Section 4) Removal and Resignation. Subject to the rights, if any, of an officer under any contract of employment, the board at any regular or special meeting may remove any officer, with or without cause.

Section 5) Vacancies. If the office of president, immediate past president, vice-president, or treasurer, becomes vacant, by reasons of death, resignation, removal or otherwise,
the board of directors shall elect a successor, who shall hold office for the unexpired term, and/or until his or her successor is elected.

**Section 6) Positions and Responsibilities.**

**A. President.** The president of the board shall preside at all the meetings of the membership. The president shall execute, with the chief executive officer and in the name of the corporation, all deeds, bonds, contracts exceeding $7,500 in value, and other obligations and instruments authorized by the board of directors to be executed, and with the chief executive officer shall sign all certificates of honorary membership of the corporation. The president shall appoint from the board of directors any committees that may from time to time be needed to conduct the business of the corporation. The president shall be an ex officio member of all committees and shall be a member of the executive committee.

The president shall also have such other powers and shall perform such other duties as may be assigned to him or her by the board of directors.

**B. Immediate Past President.** The immediate past president shall be a member of the executive committee and perform such duties as may be prescribed from time to time by the board of directors.

**C. Vice-President.** The vice-president shall be vested with all the powers and shall perform all the duties of the president of the board, in case of the absence or disability of the president. The vice-president shall also have such other powers and shall perform such other duties as may be assigned by the board of directors.

**D. Treasurer.** The treasurer shall insure the safekeeping of all funds of the corporation and insure the deposit of them in the bank or banks that may be designated by the
board of directors. Checks of the corporation in excess of a maximum amount authorized by the
board shall be paid out only when signed by the chief executive officer and any other elected
officer approved by the board for that purpose, or by such agents as may be designated by the
board of directors as authorized to sign them. The treasurer shall have such other powers to
perform such duties as may be prescribed by the board of directors from time to time.

E. Chief Executive Officer. The chief executive officer (hereinafter, ACEO) shall
be the chief executive officer of the corporation and executive director of the Bureau. The CEO
shall have general charge of the business of the corporation, and shall, in general, perform all
duties delegated by the board of directors. Job descriptions and a total compensation plan
(wages/salary, benefits) for the CEO shall be recommended, and compensation and performance
shall be reviewed annually, by the executive committee. Recommendations for adoption shall be
submitted to the board of directors for approval. Once approved, a written contract for the CEO
will be drawn up and signed by the CEO and the president as authorized by the board. His or her
duties and obligations include, but are not limited to, the following:

1. Execution of Instruments. The CEO shall execute, with the president of
the board and in the name of the corporation, all deeds, bonds, contracts, and other obligations
and instruments authorized by the board of directors to be executed, and with the president of the
board shall sign all certificates of honorary membership of the corporation.

2. Committees and Meetings. The CEO shall be a nonvoting member of
the board of directors and all committees. As such, the CEO shall cause to be kept the minutes
of all proceedings of the board of directors and all committees of the corporation. The CEO shall
attend to the giving and servicing of notices of all meetings of the board of directors, committees, and otherwise.

3. **Record Keeping.** The CEO shall act as corporate secretary. As such, he or she shall keep and have charge of the minutes of the meetings of the board of directors, and shall keep in an orderly fashion a record of such meetings. The CEO shall keep such books and papers as the board of directors may direct.

4. **Financial Management and Records.** The CEO shall keep, or cause to be kept, full and accurate accounts of receipts and disbursements to be kept in books for that purpose. The CEO shall receive and deposit, or cause to be deposited, all monies and other valuables of the corporation, in the name of and to the credit of the corporation in such depositories as may be designated by the board of directors. The CEO shall disburse or cause to be disbursed the funds of the corporation as may be directed by the board of directors, taking proper vouchers for such disbursements. The CEO shall render to the president of the board and to the board of directors, whenever they may require, accounts of his or her transactions and of the financial condition of the corporation.

5. **Hiring.** The CEO shall have the power to hire and terminate all employees of the corporation and shall set all employees' job responsibilities and compensation consistent with the budget approved by the board of directors.

**ARTICLE VII**

**COMMITTEES**

Section 1) **Standing Committees.**
A. Formation. The board may establish the following committees which shall advise the board in their areas of responsibility as set forth, or as time to time prescribed, by the board.

1. The executive committee shall consist of the officers of the corporation and up to five (5) board members as selected by the board. Each member of the executive committee shall serve for a period of one (1) year or until their successors are selected. There shall be no limit on the number of consecutive terms that any board member may serve on the executive committee. The CEO shall be a nonvoting member of the executive committee. The executive committee shall make recommendations and set the agenda for the board, transact business of an emergency nature on behalf of the board of directors between meetings of the board. At the direction of the board, the executive committee shall conduct an annual performance evaluation of the CEO and report to the board its findings, together with any recommendations for action.

2. The nominating committee shall work with the agencies responsible for designating directors, recommend members at large, and shall nominate officers.

3. In the event that the board determines that the management of the corporation would be benefited by the establishment of one or more standing or special committees in addition to the executive committee and the nominating committee, the board may from time to time establish one or more such committees/task forces.

B. Composition and Meetings. Each committee shall consist of a chairperson and committee members appointed by the president and approved by the board.
Each committee shall meet on call of the chairperson of that committee. Except that the president or a majority of the executive committee may call a meeting of the executive committee.

ARTICLE VIII

RECORDS AND REPORTS

Section 1) **Record of Contributors/Associates.** The chief executive officer shall keep or cause to be kept, at the principal office of the corporation, an annual record showing the names and addresses of each contributing member and the individual, if any, entitled to represent that member. Termination of any such honorary membership shall be recorded in the record, together with the date on which the honorary membership ceased.

Section 2) **Records.** The corporation shall keep adequate and correct records of account and minutes of the proceedings of its board and committees. The minutes shall be kept in written form. Other books and records shall be kept in either written form or in any other form capable of being converted into written form. The articles of incorporation and bylaws of the corporation, with amendments to current dates, shall also be maintained at the principal office of the corporation.

Section 3) **Annual Report.** The board of directors shall cause an annual report to be prepared after the end of the corporation’s fiscal year. The report shall contain all the information required by Section 6321(a) of the Corporations Code, or any successor statute thereto, and shall be accompanied by any report thereon of independent accountants. Said report may take the form of an annual review. An annual audit shall not be necessary unless required by the board of directors. If there is no such report, the certificate of an authorized officer of the
corporation that such statements were prepared without audit from the books and records of the corporation shall be attached to the annual report. The annual report shall be furnished to all directors.

ARTICLE IX
LIABILITY AND INDEMNIFICATION

Section 1) Liability. To the fullest extent allowed by law, there shall be no monetary liability and no cause of action for damages shall arise against any nonpaid director, including a nonpaid director who is serving as a nonpaid officer or committee member of this corporation.

Section 2) Contracts With Directors and Officers. No director of this corporation nor any other committee, firm, association, or other entity in which one or more of this corporation's directors are directors, or have a material financial interest, shall be interested, directly or indirectly, in any contract or other transaction with this corporation, unless the material facts regarding such director's financial interest in such contract or transaction or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and are noted in the minutes or are known to all board members before consideration by the board of such contract or transaction, and such contract or transaction is authorized in good faith by a majority of the board by a vote sufficient for that purpose without counting the vote of the interested director.

Section 3) Loans to Directors and Officers. This corporation shall not lend any money or property to, or guarantee the obligation of, any director or officer of the corporation or of its parent, affiliate, or subsidiary unless (a) the board decides that the loan or guaranty may reasonably be expected to benefit the corporation, and (b) before consummating the transaction
or any part of it, the loan or guaranty is approved by the vote of a majority of the directors then in
office, without counting the vote of the director who is to receive the loan or guaranty.

Section 4) Indemnification. To the fullest extent permitted bylaw, this corporation shall
indemnify its directors, officers, employees, and other persons described in Corporations Code
Section 5238(a), including persons formerly occupying any such positions, against all expenses,
judgments, fines, settlements, and other amounts actually and reasonably incurred by them in
connection with any proceeding, as that term is used in that section, and including an action
by or in the right of the corporation, by reason of the fact that the person is or was a person
described in that section. Expenses, as used in this bylaw, shall have the same meaning as in
that section of the Corporations Code.

On written request to the board by any person seeking indemnification under
Corporations Code Section 5238(b) or Section 5238(c), the board shall promptly decide under
Corporations Code Section 5238(e) whether the applicable standard of conduct set forth in
Corporations Code Section 5238(b) or Section 5238(c) has been met and, if so, the board shall
authorize indemnification. If the board cannot authorize indemnification, because the number of
directors who are parties to the proceeding with respect to which indemnification is sought
prevents the formation of a quorum of directors who are not parties to that proceeding, the board
shall promptly call a meeting of members. At that meeting, the members shall determine under
Corporations Code Section 5238(e) whether the applicable standard of conduct has been met and,
if so, the members present at the meeting in person or by proxy shall authorize indemnification.

To the fullest extent permitted by law and except as otherwise determined by the board in
a specific instance, expenses incurred by a person seeking indemnification under this section in
defending any proceeding covered by this section shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the corporation for those expenses.

Section 5) **Insurance.** This corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, to cover any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising from the officer=s, director=s, employee=s, or agent=s status as such.

**ARTICLE X**

**FISCAL YEAR**

The fiscal year for the corporation shall be the calendar year July 1 to June 30.
ARTICLE XI

AMENDMENTS

The bylaws of the corporation may be amended at any meeting of the board, so long as the directors have received written notification of the substance of the proposed amendments or amendments at least seven (7) days prior to the meeting, and the proposed amendment is approved by a two-thirds (2/3) vote of the directors then holding office.

ARTICLE XII

CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these bylaws. Without limiting the generality of the foregoing, the masculine, feminine, or neuter gender, and the singular or plural number, each shall be deemed to include the others whenever the context so indicates, and the term Aperson@ includes both a legal entity and a natural person.
CERTIFICATION

I, ________________________________, hereby certify:

That I am the duly elected and acting secretary of MODESTO CONVENTION AND VISITORS BUREAU. The foregoing Bylaws, consisting of sixteen (16) pages, constitute the Bylaws of this nonprofit, public benefit corporation, as duly adopted on by the vote of the designed directors of the Corporation.

Executed this __________ day of ________________________, 2001

__________________________
Secretary
SECRETARY OF STATE

I, BILL JONES, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

OCT - 8 2002

Bill Jones
Secretary of State
ARTICLES OF INCORPORATION
OF
MODESTO CONVENTION AND VISITORS BUREAU,
a California public benefit corporation

ARTICLE I

Name. The name of this corporation is the Modesto Convention and Visitors Bureau, Inc. ("Bureau").

ARTICLE II

(A) This corporation is a non-profit public benefit corporation and is not organized for the private gain of any person. It is organized under the non-profit public benefit corporation law for the purpose of improving business conditions generally in the City of Modesto, within the meaning of United States Tax Code Section 501(c)(6) and California Revenue and Taxation Code Section 23701(e).

(B) The specific purposes for which this corporation is organized are: (1) to attract visitors to the area by promoting and marketing Modesto as a convention, sports, tourism, and leisure travel destination, (2) to provide coordination and leadership for the community and the visitor industry on matters relating to convention activity and tourism, (3) to gather community information designed to convey to opinion leaders and the public at large the status of the visitor industry, (4) to work with local governmental agencies, private enterprise and other interested parties to structure suitable financing plans for the bureau, and to implement those plans.

(C) Limitation: Bureau shall be non-profit and non-partisan and shall neither participate in nor lend its support to the election of any candidate for public office.

ARTICLE III

The name and address in the State of California of this corporation’s initial agent for service of process is:

Roland R. Stevens, Assistant City Attorney
City of Modesto
P. O. Box 642
Modesto, CA 95353
ARTICLE IV

The names and addresses of the persons appointed to act as the initial directors of this corporation are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack Crist, Initial Director</td>
<td>City of Modesto</td>
</tr>
<tr>
<td></td>
<td>P. O. Box 642</td>
</tr>
<tr>
<td></td>
<td>Modesto, CA 95353</td>
</tr>
<tr>
<td>Robert Quintella, Initial Director</td>
<td>City of Modesto</td>
</tr>
<tr>
<td></td>
<td>1000 L Street</td>
</tr>
<tr>
<td></td>
<td>Modesto, CA 95354</td>
</tr>
<tr>
<td>Roland R. Stevens, Initial Director</td>
<td>City Attorney’s Office</td>
</tr>
<tr>
<td></td>
<td>P. O. Box 642</td>
</tr>
<tr>
<td></td>
<td>Modesto, CA 95353</td>
</tr>
</tbody>
</table>

ARTICLE V

(A) This corporation is organized and operated exclusively for the purposes set forth above. In no event will any part of its net earnings inure to the benefit of any private individual. The corporation is not organized for profit or to engage in an activity ordinarily carried on for profit.

(B) The corporation is, will be, and will remain an incorporation of an association of persons having common business interests, the purpose of which is to promote that common interest(s), and not to engage in a regular business of a kind ordinarily carried on for profit.

(C) The corporation will be devoted to the improvement of business conditions of one or more lines of business in the Modesto, California area, as distinguished from the performance of particular services for individual persons.

(D) The corporation may or may not engage in the operation of a trade publication primarily intended to attract visitors to the Modesto area by promoting and marketing Modesto as a convention, sports, tourism, and leisure travel destination, which thereby is intended to benefit the tourism industry in general, and not a specific company or companies within that industry, or any other industry.

(E) The corporation will also be operated to encourage the use of goods and services of the entire travel, recreation, sports and leisure industry in and around the City of Modesto, California.
The corporation is organized to work for the enactment of laws to advance the common business interests of the corporation's members as permitted within the meaning of United States Tax Code Section 501(c)(6) as it is currently enacted and interpreted, and as that statute may be amended or interpreted in the future. Notwithstanding this or any other provision of these Articles, the corporation shall not carry on any activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of the United States, or (2) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code of the United States.

Except as set forth in the next preceding paragraph, no substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation. The corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of or opposing any candidate for public office. Exception: “grassroots lobbying” as permitted by Internal Revenue Service Publication 557 discussions of United States Tax Code Section 501(c)(6), such lobbying being limited to contacts of prospective members or calls upon members of the corporation to contact their employees and customers for the purpose of urging such persons to communicate with their elected state or congressional representatives to support the promotion, defeat, or repeal of legislation that is of direct interest to the organization.

ARTICLE VI

The property of this corporation is irrevocably dedicated to the purposes set forth in paragraphs IIA and IIB above, and no part of the net income or assets of the organization shall ever inure to the benefit of any director, officer, or member of the corporation, or to the benefit of any private person or organization. An affidavit of the officers of the Modesto Convention and Visitors Bureau is filed simultaneously with these Articles, averring that the transfer of all property owned by the Modesto Convention and Visitors Bureau has been approved for transfer to the Bureau in accordance with all of the procedures and rules of the Modesto Convention and Visitors Bureau and/or the City of Modesto Chamber of Commerce.

ROLAND R. STEVENS, Initial Director

JACK R. CRIST, Initial Director

ROBERT QUINTELLA, Initial Director
We declare that we are the persons who executed the foregoing Articles of Incorporation which execution is our act and deed.

[Signatures]

ROLAND R. STEVENS, Initial Director

JACK R. CRIST, Initial Director

ROBERT QUINTELLA, Initial Director
AFFIDAVIT OF INCORPORATOR

I, ROLAND R. STEVENS, am the incorporator/director of an unincorporated organization known as the Modesto Convention and Visitors Bureau. I am a competent adult capable, if called to testify, of testifying to the truth of the following averments.

1. That I am the incorporator of that certain corporation named the Modesto Convention and Visitors Bureau, Inc.

2. I am personally aware that the incorporation of the existing association known as the Modesto Convention and Visitors Bureau into the Modesto Convention and Visitors Bureau, Inc., and the transfer of all property from the former to the latter has been approved by the former in accordance with all of its procedures and rules.

I declare the foregoing to be true and correct under penalty of perjury of the laws of the State of California this 22nd day of July, 2002.

ROLAND R. STEVENS, Incorporator
AFFIDAVIT OF INCORPORATOR

I, JACK R. CRIST, am the incorporator/director of an unincorporated organization known as the Modesto Convention and Visitors Bureau.

1. I am a competent adult capable, if called to testify, testifying to the truth of the following averments:

2. I am personally aware that the incorporation of the existing association known as the Modesto Convention and Visitors Bureau into the Modesto Convention and Visitors Bureau, Inc., and the transfer of all property from the former to the latter has been approved by the former in accordance with all of its procedures and rules.

I declare the foregoing to be true and correct under penalty of perjury of the laws of the State of California this 22nd day of July, 2002.

JACK R. CRIST, Incorporator
AFFIDAVIT OF INCORPORATOR

I, ROBERT QUINTELLA, am the incorporator/director of an unincorporated organization known as the Modesto Convention and Visitors Bureau.

1. I am a competent adult capable, if called to testify, testifying to the truth of the following averments:

2. I am personally aware that the incorporation of the existing association known as the Modesto Convention and Visitors Bureau into the Modesto Convention and Visitors Bureau, Inc., and the transfer of all property from the former to the latter has been approved by the former in accordance with all of its procedures and rules.

I declare the foregoing to be true and correct under penalty of perjury of the laws of the State of California this 22nd day of July, 2002.

ROBERT QUINTELLA, Incorporator