MODESTO CITY COUNCIL
RESOLUTION NO. 2003-637

A RESOLUTION APPROVING AMENDMENT NO. 17 TO THE AGREEMENT FOR KANSAS NEEDHAM OVERHEAD CONSTRUCTION SUPPORT SERVICES WITH PARSONS TRANSPORTATION GROUP IN THE AMOUNT OF $62,121.38 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, by Resolution No. 88-750, the original Agreement for Engineering Services with Parsons Transportation Group (formerly known as De Leuw, Cather & Company) for the Ninth Street Railroad Relocation Project was approved by Council on October 4, 1988, and

WHEREAS, the initial agreement and seven subsequent amendments were for studies and applications for grants, and

WHEREAS, Amendment Nos. 9, 10, 11, & 12 began the actual design and property research, and

WHEREAS, Amendment No. 12 funded the re-design efforts after Caltrans approved the Kansas Needham Highway 132 realignment project, and

WHEREAS, Amendment No. 13 funded the aesthetic treatments of the Kansas-Needham Overhead, intersection changes to College-Needham, and construction support services, and

WHEREAS, Amendment No. 14 funded an expanded scope of services to address additional design changes and project delays, and

WHEREAS, Amendment No. 15 funded construction support services for the Pacbell retaining wall, resolved submittal issues and errors, and

WHEREAS, Amendment No. 16 continued to fund construction support services to 80 percent project completion, and
WHEREAS, Amendment No. 17 provides further funding for Parsons Transportation Group to resolve construction conflicts and contractor errors to complete the construction of the Kansas Needham Overhead,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 17 to an agreement between the City of Modesto and the Parsons Transportation Group for continued engineering services for the 9th Street Railroad Relocation project (Kansas Needham Overhead) be, and it is hereby approved.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute said amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 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: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryan

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-638

A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH DOKKEN ENGINEERING FOR PROFESSIONAL DESIGN SERVICES FOR REPLACEMENT OF THE 9TH STREET BRIDGE OVER TUOLUMNE RIVER TO PROVIDE UPDATE OF HOURLY BILLING RATES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT TO AGREEMENT

WHEREAS, on April 13, 1999, the City of Modesto and Dokken Engineering (CONSULTANT) entered into an Agreement for design services for REPLACEMENT OF THE 9TH STREET BRIDGE OVER TUOLUMNE RIVER, and

WHEREAS, on November 7, 2003, CONSULTANT submitted to the City of Modesto a request for an amendment to the original agreement so as to revise personnel hourly billing rates for the construction support phase of the 9th Street Bridge Replacement project, and

WHEREAS, CONSULTANT’S request for an amendment states an amendment is required due to changes in CONSULTANT’s overhead rate and staff assigned to the project, and

WHEREAS, the basis for CONSULTANT’s request for an amendment is that the original hourly billing rates were negotiated in April 1999, more than four (4) years ago, and

WHEREAS, the Third Amendment to Agreement for Consultant Services will not increase the amount of the original contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to Agreement for Consultant Services with Dokken Engineering to provide for update of hourly billing rates.
BE IT FURTHER RESOLVED that the execution of said amendment by the City Manager or his authorized designee is hereby approved.

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-639

A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSALS AND APPROVING THE PROPOSED EVALUATION CRITERIA FOR THE DESIGN OF A DISSOLVED AIR FLOTATION CLARIFIER AT THE WASTEWATER TREATMENT FACILITY

WHEREAS, Wastewater is treated at two locations in the City of Modesto, and

WHEREAS, the City has a state permit to discharge treated wastewater into the San Joaquin River starting October 1 of each year, and

WHEREAS, the treated wastewater has a solids concentration above the state limit and little or no discharge actually occurs in October and November, and

WHEREAS, a reduction of algae solids will allow discharge during these two months, and

WHEREAS, the Operations & Maintenance Department is requesting the engineering design and construction of a Dissolved Air Flotation Clarifier (DAF) to remove algae solids, and

WHEREAS, City desires to hire an engineering firm specializing in sanitary engineering to design the DAF facility, and

WHEREAS, the Engineering & Transportation Department will assist in developing a Request for Qualifications (RFQ) and a Request for Proposals (RFP), and

WHEREAS, City staff will follow Consultant selection procedures and proposed evaluation criteria as set forth in the RFQ, Attachment “A”, and the RFP, Attachment “B”, attached hereto, and incorporated by reference, and
WHEREAS, the DAF RFQ/RFP process was approved at the November 10, 2003, Economic Development Committee meeting,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the Consultant selection procedures and evaluation criteria for the design of a DAF.

BE IT FURTHER RESOLVED that City staff is hereby authorized to proceed with an RFQ and RFP for design of the DAF at the Wastewater Treatment Facility.

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milich, City Attorney
December 11, 2003

DRAFT

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

SUBJECT: Request for Qualifications for City of Modesto
Dissolved Air Flotation Facility

Dear Consultant:

The City of Modesto is soliciting qualifications from consultant engineers, specializing in sanitary engineering, for the preparation of contract documents for the construction of a Dissolved Air Flotation Facility. **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: Dean Phillips

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.
BACKGROUND:

Wastewater is treated at two locations in the City of Modesto. Primary treatment occurs at the Sutter Avenue facility and is pumped to the Secondary site on Jennings Road adjacent to the San Joaquin River. Once treated at both sites, the City has a state permit to discharge into the San Joaquin River starting October 1 of each year. However, the treated effluent has a solids concentration above the state limit, and little or no discharge has actually occurred in October and November. Reduction of algae solids in the wastewater storage ponds will allow discharge during these two months, and will represent an immediate increase in disposal capacity.

The Dissolved Air Flotation (DAF) clarifier is the technology chosen for this application. DAF clarifiers have been used effectively for well over a decade at several California wastewater treatment plants, including those at Sunnyvale, Stockton, and Rancho Murieta.

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>
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<tr>
<th>MILESTONE</th>
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<td>RFQ's Due</td>
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<td>Select and Issue Request for Proposals (RFP’s)</td>
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<tr>
<td>RFP’s Due</td>
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<tr>
<td>Consultants Interviews</td>
<td>TBD</td>
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<tr>
<td>Award Contract</td>
<td>TBD</td>
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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,

Dean Phillips
Sr. Civil Engineer
December 11, 2003

DRAFT

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

SUBJECT: Request for Proposals for City of Modesto
Dissolved Air Flotation Facility

Dear Consultant:

The City of Modesto is soliciting proposals from consultant engineers, specializing in sanitary engineering for the preparation of contract documents for the construction of a Dissolved Air Flotation Facility. 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: Dean Phillips

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
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:

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<td>Consultants Interviews</td>
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<td>Award Contract</td>
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If you have any questions, please contact me at (209) 577-5260.

Sincerely,

Dean Phillips
Sr. Civil Engineer
A RESOLUTION APPROVING A SUPPLEMENTAL LEASE AGREEMENT
WITH THE GENERAL SERVICES ADMINISTRATION FOR OFFICE SPACE
AT THE MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING THE
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT ON
BEHALF OF THE CITY

WHEREAS, the City of Modesto and the General Services Administration
entered into a Lease Agreement on November 20, 2002, for office space at the Modesto
City-County Airport, and

WHEREAS, said office space is being used by the Transportation Safety
Administration to house its security staff serving the Modesto City-County Airport, and

WHEREAS, the General Services Administration foresees the need to extend its
lease with the City of Modesto for a one year period, and

WHEREAS, the current lease and subsequent amendments provide for a lease
period that expires February 28, 2004, and

WHEREAS, the General Services Administration has requested that the lease be
extended to February 28, 2005, and

WHEREAS, Airport staff does not anticipate the need to use said office space
during the one-year extension period requested.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves Supplemental Lease Agreement 5 to the General Services
Administration Lease No. GS-09B-01257.

BE IT FURTHER RESOLVED that the City Manager or his authorized designee
is authorized to execute the Supplemental Lease Agreement on behalf of the City.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 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 2003-2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2003-2004 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 11th day of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: __________________________
JEAN ZAHR, City Clerk (seal)

APPROVED AS TO FORM:

By: __________________________
MIKE MILICH, City Attorney
### Budget Adjustments for the Month of November 2003

#### Operations & Maintenance Department

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<td>Adjustment needed in order to purchase land. This increase will be funded by the Capital Facilities Fee Fund.</td>
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#### City Manager's Office

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#### Justification

**Operations & Maintenance Department**
- The bids for the Traffic Operations Building came in higher than estimated. These buildings are needed due to the displacement by the new Bus/Fleet Maintenance Facility. In order to proceed with the Traffic Operations staff needs to close the Fleet Service Police Shop CIP #J879 and reallocate those funds to the Traffic Operations Corp Yard Relocation CIP #L116.

**City Manager's Office**
- To establish a CFF Administration budget for FY03-04. This budget is currently under the Finance Department and needs to be transferred to the City Manager's office.
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-642

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE LOCAL TRANSPORTATION FUND (LTF) CLAIM FOR FISCAL YEAR 2003-2004, FOR NON-TRANSIT PURPOSES ONLY, TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, on May 27, 2003, the City Council approved the fiscal year 2003-2004 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 12, 2003, the StanCOG pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, the StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and

WHEREAS, the StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities uses pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, the StanCOG has informed the Finance Department that the City of Modesto may claim $2,612,755 of Annual LTF for street purposes, and $119,726 for pedestrian and bicycle projects, and

WHEREAS, the StanCOG has informed the Finance Department that the City of Modesto may claim $424,270 of Supplemental LTF for street purposes, and $8,020; for pedestrian and bicycle projects, and

WHEREAS, Council action authorizing the claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves and authorizes the execution and submission of the claim for
apportionment of the fiscal year 2003-2004 Annual and Supplemental LTF to StanCOG
to obtain non-transit funds in the amount of $3,164,771.

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:
By Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 OPERATING BUDGET TO OBLIGATE UNBUDGETED LOCAL TRANSPORTATION FUNDS (LTF).

WHEREAS the Council of the City of Modesto had approved and authorized the execution and submission of the claim for apportionment of the fiscal year 2003-2004 Annual and Supplemental Local Transportation Funds (LTF) to StanCOG to obtain non-transit funds in the amount of $3,164,771, and

WHEREAS, $537,025 of the LTF street and 7,746 of the non-motorized funds were not obligated in the City’s fiscal year 2003-2004 Operating and Capital Improvement Program Budgets, and

WHEREAS, these funds must be budgeted before they can be used for transportation projects or programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2003-2004 Operating Budget is hereby amended as follows:

1. Increase the revenue budgeted in 0510-430-4310-1213 from $2,500,000 to $3,037,025, and
2. Increase the revenue budgeted in 0520-430-4320-1216 from $120,000 to $127,746.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 11th day of December, 2003, by Councilmember
Frohman, who moved its adoption, which motion being duly seconded by
Councilmember Marsh, was upon roll call carried and the resolution adopted by the
following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED AS TO FORM:

By
Michael D. Milich, City Attorney

Attest:

Jean Zahr, City Clerk

2003-643
A RESOLUTION AUTHORIZING THE AWARD OF THE BID FOR THE
ONLINE FURNISHING OF BUSINESS CARDS, LETTERHEAD AND PRINTED
ENVELOPES TO PINNACLE SOLUTIONS INC., D.B.A. DITTOS, MODESTO,
CA FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR
EXTENSION OPTIONS

WHEREAS, in order to provide a more efficient, cost effective means for the City
to purchase printed stationery, the Purchasing Division submitted a bid to prospective
vendors for the furnishing of business cards, letterhead and printed envelopes through
online ordering, and

WHEREAS, City departments and divisions shall have the ability to place orders
directly online by means of an electronic account accessed by an electronic pass code,
and

WHEREAS, the Purchasing Division will maintain the “City Wide” list of
electronic accounts and pass codes, and

WHEREAS, online ordering will expedite the order process and, the requestor
can review and confirm a color proof at order entry, thus reducing staff time by
eliminating the need to fax or mail proofs, and

WHEREAS, in July 2003, Council approved Resolution No. 2003-410
authorizing the Purchasing Supervisor to formally solicit bids for the online furnishing of
business cards, letterhead and printed envelopes “City Wide”, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-35 for
the online furnishing business cards, letterhead and printed envelopes, and
WHEREAS, eleven (11) vendors were solicited, plus the bid was posted on the City's web site. Of the eleven (11) vendors solicited, five (5) vendors chose to respond, and

WHEREAS, on September 23, 2003 bids were opened and recorded in the City Clerk's office, and

WHEREAS, based on being the lowest responsive and responsible bidder it is recommended by staff that the City award the bid for the online furnishing of business cards, letterhead and printed envelopes to Pinnacle Solutions Inc., d.b.a. Dittos, Modesto, CA for an estimated annual cost of $9,102.18, for a three (3) year agreement with two (2) one-year extension options,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid to Pinnacle Solutions Inc., d.b.a. Dittos, Modesto, CA., for the online furnishing of business cards, letterhead and printed envelopes for an estimated annual cost of $9,102.18, for a three (3) year agreement with two (2) one-year extension options.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O‘Bryant

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT
BETWEEN THE CITY OF MODESTO AND PACIFIC BELL WIRELESS, A
NEVADA LIMITED LIABILITY CORPORATION, DBA CINGULAR
WIRELESS, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF
BEYER COMMUNITY PARK, WITH THREE FIVE-YEAR OPTIONS TO
EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE LEASE AGREEMENT.

WHEREAS, Pacific Bell Wireless, a Nevada limited liability corporation, dba
Cingular Wireless, desires to lease a cellular tower site located on a portion of Beyer
Community Park with three five-year options to extend the lease, for the installation of
phone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Beyer
Community Park to Cingular Wireless for said use for the sum of $1,400.00 per month
with a rental increase equal to the Consumer Price Index for the San
Francisco/Oakland/San Jose MSA at the beginning of each renewal period, and

WHEREAS, Cingular Wireless is also willing to pay the City a lump sum of
$7,768.70 for the purpose of offsetting a portion of the cost of installation of scoreboards
for the ball fields at Beyer Park,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City
of Modesto that it hereby approves the Five-Year Lease Agreement between the City of
Modesto and Pacific Bell for a cellular site located on a portion of Beyer Community
Park, with three, five-year options to extend the lease.

BE IT FURTHER RESOLVED that the execution of said Lease Agreement by
the City Manager, or his designee is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

Attest: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-646

A RESOLUTION APPROVING A WAIVER OF THE RESIDENCY REQUIREMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT EMERGENCY HOME REPAIR LOANS TO ALLOW VIRGINIA BROWN, DAUGHTER OF DECEASED LOAN RECIPIENT VIRGIE BROWN TO REMAIN IN THE HOME AT 1626 CARLTON, AND DIRECTING STAFF TO SEND WRITTEN NOTIFICATION TO VIRGINIA BROWN THAT THE LOAN WILL BE REVIEWED IN 2009.

WHEREAS, in December, 1995, Virgie M. Brown received an Emergency Home Repair Loan for rehabilitation of her home at 1626 Carlton Avenue, and

WHEREAS, the loan is deferred until 2045, and

WHEREAS, a requirement of the loan is that the residence be owner-occupied,

and

WHEREAS, staff recently learned that Virgie M. Brown is deceased, and

WHEREAS, her disabled adult daughter, Virginia Brown, continues to occupy the home, and is unable to pay off the loan, and

WHEREAS, staff has received a request from Stanislaus County Adult Protective Services (APS), requesting that Virginia Brown be allowed to remain in the home, and

WHEREAS, the Housing Rehabilitation Loan Committee met on, November 6, 2003, and supported the recommendation to allow Virginia Brown to remain in the home and that no legal action be taken,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a waiver of the residency requirement for Community Development Block Grant Emergency Home Repair Loans to allow Virginia Brown, daughter of deceased loan recipient Virgie Brown to remain in the home at 1626 Carlton.
BE IT FURTHER RESOLVED that staff is hereby directed to send written notification to Virginia Brown that the loan will be reviewed in 2009.

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

Attest: JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN EXTENSION OF AN AGREEMENT BETWEEN THE CITY OF MODESTO AND VALLEYCREST GOLF COURSE MAINTENANCE TO PROVIDE MAINTENANCE SERVICES AT THE CITY’S THREE GOLF COURSES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City owns, operates and manages the Municipal Golf Course ("Municipal Course"), Dryden Park Municipal Golf Course ("Dryden Course"), and Creekside Municipal Golf Course ("Creekside Course"), and

WHEREAS, on September 7, 1999, the City of Modesto and ValleyCrest (formerly known as Environmental Golf Inc.) entered into an Agreement under authority of Resolution No. 99-446 to provide maintenance services at the City’s three golf courses, and,

WHEREAS, it is the desire of the City and ValleyCrest to continue as the maintenance provider at Municipal Course, Dryden Course, and Creekside Course, and

WHEREAS, at their June 2, 2003, meeting, the Safety and Communities Committee recommended to continue negotiations with ValleyCrest and to exercise its right to offer to extend agreements with ValleyCrest as of June 30, 2003, and

WHEREAS, at their August 4, 2003 meeting, the Safety & Communities committee recommended a five-year extension of the agreement with the City of Modesto and ValleyCrest,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into an agreement with ValleyCrest Golf Course Maintenance to provide maintenance services at the City’s Municipal Course, Dryden Course, and Creekside Course.
BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryan

ATTEST: 

(MICHAEL D. MILICH, City Attorney)
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-648

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO A'S PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and,

WHEREAS, on January 26, 1999, the City of Modesto and the Modesto A's entered into a license agreement under authority of Resolution No. 99-44 for the lease of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto to continue to lease John Thurman Field to the Modesto A’s Professional Baseball Club, and

WHEREAS, it is the desire of the City to enter into a license agreement with the Modesto A’s Professional Baseball Club for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005, and

WHEREAS, at their December 1, 2003, meeting, the Safety and Communities Committee recommended to enter into a two-year license agreement with the Modesto A’s Professional Baseball Club,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a license agreement with the Modesto A’s Professional Baseball Club to lease John Thurman Field, for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST:  
JEAN ZAHR, City Clerk
(SEAL)

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING A FIELD MAINTENANCE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO A'S PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and,

WHEREAS, on January 26, 1999, the City of Modesto and the Modesto A's entered into an agreement under authority of Resolution No. 99-45 for the field maintenance of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto to continue field maintenance at John Thurman Field with the Modesto A's Professional Baseball Club, and

WHEREAS, it is the desire of the City to enter into a field maintenance agreement with the Modesto A's Professional Baseball Club for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005, and

WHEREAS, at their December 1, 2003, meeting, the Safety and Communities Committee recommended to enter into a two-year maintenance agreement with the Modesto A's Professional Baseball Club,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a maintenance agreement with the Modesto A's Professional Baseball Club to lease John Thurman Field, for a two-year period commencing on January 1, 2004 and terminating on December 31, 2005.

BE IT FURTHER RESOLVED that the execution of said agreement by the City Manager, or his designee, is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-650

A RESOLUTION APPROVING A THREE (3%) PERCENT INCREASE IN SALARY FOR THE CITY CLERK/AUDITOR.

WHEREAS, by Resolution No. 2003-330 effective June 26, 2003, the City Council approved and established a "City of Modesto Schedule of Salary Ranges in City Service For FY 03-04 Effective July 1, 2003," for Executive Management (Exhibit "O"), and

WHEREAS, salaries for Charter Officers appointed by the Council are subject to periodic review and adjustment, and

WHEREAS, the Council desires to approve a three (3%) percent increase in salary to JEAN ZAHR, City Clerk/Auditor, effective December 16, 2003, which increase is within the range established in Exhibit "O" of Resolution No. 2003-330,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a three (3%) percent increase in salary to JEAN ZAHR, City Clerk/Auditor, effective December 16, 2003, as follows:

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O’Bryant

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-651

A RESOLUTION AUTHORIZING STAFF TO RECONFIGURE TRAFFIC FLOW FROM 9TH STREET TO ACCESS THE KANSAS NEEDHAM OVERCROSSING (KNOC) PROJECT AND UPDATE THE EXISTING TRUCK ROUTE MAP AND RESCINDING RESOLUTION NO. 2001-46

WHEREAS, Section 3-2.1301(d) of the Modesto Municipal Code of the City of Modesto authorizes the Council to determine and designate truck routes by resolution, which designation shall become effective when appropriate signs are placed giving notice of said designations to the public, and

WHEREAS, by Resolution No. 75-465, adopted on April 14, 1975, the City Council designated truck routes in the City of Modesto, and

WHEREAS, by Resolution No. 90-795, adopted on September 25, 1990, the City Council designated truck routes in the City of Modesto, and

WHEREAS, by Resolution No. 2001-46, adopted on February 6, 2001, the City Council re-designated truck routes in the City of Modesto, and

WHEREAS, with the completion of the Kansas/Needham Overcrossing (KNOC), staff is recommending that City Council amend its current truck routes to include 10th and O Streets, and

WHEREAS, these changes are being recommended to enable traffic flow from 9th Street onto the new KNOC, and

WHEREAS, on June 5, 2003, staff mailed a letter to approximately 32 business owner/residents requesting feedback for the proposed truck route changes, and

WHEREAS, the Citizens Redevelopment Advisory Commission (RDA) Traffic sub-committee, ADK Permits, and Cal Permits have endorsed these new truck routes, and
WHEREAS, on July 17, 2003, staff met with the RDA Traffic Sub-committee and Steve Madison from Petrulakis, Jensen, Friedrich and Cabral to find alternative off-street parking to accommodate the Parks Printing employees, and

WHEREAS, the Economic Development Committee reviewed and approved of staff redesignating the truck routes and proceed with parking removal on 10th Street between O Street and Needham Avenue and O Street between 9th and 10th Streets, as requested, at their meeting on August 11, 2003, and

WHEREAS, staff presented this item to City Council on September 2, 2003 and staff was directed to meet with business owners and residents to find alternative parking for employees, and

WHEREAS, on December 3, 2003, staff met with Bud and Frank Parks from Parks Printing, Sheila Birch from The Carrot, and Barbara Savery from Petrulakis, Jensen, Friedrich & Cabral and they desired Alternative 3 which designates 10th Street one-way, from Needham to O Streets, southbound direction, and O Street one-way, from 10th to 9th Street, westbound direction, and

WHEREAS, the Economic Development Committee at their December 8, 2003 meeting, reviewed and approved staff's recommendation of Alternative 3,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to proceed with Alternative 3 which designates 10th Street one-way, from Needham to O Streets, southbound direction, and O Street one-way, from 10th to 9th Streets, westbound direction and to update the truck route map, as follows:

SECTION 1: Truck routes are hereby designated as shown on the maps entitled, “Modesto Truck Routes”.
SECTION 2. The Engineering and Transportation Director is hereby directed to cause the truck routes to be marked and designated in accordance with the provisions of this resolution.

SECTION 3. The provisions of this resolution shall be subject to the provisions of Section 3-2.815 of the Modesto Municipal Code requiring the approval of the Caltrans insofar as they pertain to the regulations of traffic upon State highways within the City.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-652

A RESOLUTION APPROVING THE REQUEST FROM HABITAT FOR HUMANITY FOR A DEFERRAL OF THE CITY’S CAPITAL FACILITIES FEES (CFF) TOTALING $44,955 FOR FIVE PROPERTIES IN RIVERDALE TRACT FOR LOW-INCOME HOUSEHOLDS, LOCATED OUTSIDE OF THE MODESTO CITY LIMITS, BUT WITHIN THE CITY’S SPHERE OF INFLUENCE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIVE (5) EXEMPTION/DEFERRAL AGREEMENTS WITH HABITAT FOR HUMANITY AND TO EXECUTE DEFERRAL OR EXEMPTION AGREEMENTS WITH THE NEW PROPERTY OWNERS, AS THE HOMES ARE SOLD TO HOUSEHOLDS WITH INCOME LESS THAN 80% OF THE MEDIAN AREA INCOME.

WHEREAS, on September 11, 2003, Anita Hellam, Executive Director of the Habitat for Humanity local chapter, submitted a letter requesting a waiver of the CFF fees totaling $44,955 for five properties located in the Riverdale Tract, and

WHEREAS, Habitat for Humanity is a non-profit organization created in 1976 which through volunteer labor and donations of money and materials builds and rehabilitates simple, decent houses with the help of the homeowner (partner) families, and

WHEREAS, Habitat for Humanity’s houses are sold to partner families at no profit, financed with affordable, no-interest loans with the loan payments based on what is affordable to the families, and the homeowners’ monthly mortgage payments are used to build more houses by Habitat for Humanity, and

WHEREAS, in essence, Habitat for Humanity creates affordable houses for low-income households, and

WHEREAS, The Stanislaus Chapter of Habitat for Humanity will be building five new homes in the Riverdale Tract which is located outside the City limits but within the
City’s Sphere of Influence; this area is located near Hatch and Carpenter, and is in a housing area adjacent to the Tuolumne River, and

WHEREAS, the empty lots are currently owned by Habitat for Humanity and the houses to be built will be approximately 1,100 square feet with an attached one-car garage, and will be elevated above the flood plain, and

WHEREAS, the new homeowners will either be eligible for an exemption or deferral of CFF based on household income and family size, and

WHEREAS, the CFF Steering Committee reviewed and supported this item at its meeting of October 9, 2003, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of a deferral of the City of Modesto’s Capital Facility Fees totaling $44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City’s Sphere of Influence,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the request from Habitat for Humanity for an exemption of the City’s Capital Facilities Fees (CFF) totaling $44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City’s Sphere of Influence.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the five (5) exemption/deferral agreements with Habitat for Humanity.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute deferral or exemption agreements with the new property owners, as the homes are sold to households with income less than 80% of the Median Area Income.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O'Bryant

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-653

A RESOLUTION APPROVING A REFUND TO HABITAT FOR HUMANITY FOR $3,831 PAID FOR CAPITAL FACILITIES FEES (CFF) ON TWO PROPERTIES (1714 OLYMPIA STREET AND 530 BUTTE AVENUE) LOCATED OUTSIDE OF THE CITY LIMITS, BUT WITHIN THE SPHERE OF INFLUENCE, AUTHORIZING THE CITY MANAGER TO EXECUTE A REFUND AGREEMENT WITH HABITAT FOR HUMANITY, A CFF DEFERRAL AGREEMENT WITH ANASTACIO L. AND TINA R. RAYGOZA FOR 1714 OLYMPIA STREET, AND A CFF EXEMPTION AGREEMENT WITH FERNANDO AND ANALUCIA V. CORTES FOR 530 BUTTE AVENUE.

WHEREAS, on September 11, 2003, Anita Hellam, Executive Director of the Habitat for Humanity local chapter, submitted a letter requesting a refund for CFF fees already paid on two properties on Olympia Avenue and Butte Street, and

WHEREAS, Habitat for Humanity is currently building homes at 1714 Olympia Street and 530 Butte Avenue, and

WHEREAS, both properties are in the County, but within the City’s Sphere of Influence, and

WHEREAS, at the time the permits were issued, the City charged CFF in the amount of $1,834 for 1714 Olympia Street, and $1,997 for 530 Butte Avenue, and

WHEREAS, the Building Inspection Division was not aware that there had been residences on these properties previously which were built in the 1940’s and demolished in 1979 and 1998 respectively, and

WHEREAS, the CFF fees paid by Habitat for Humanity for the Olympia and Butte properties in the total amount of $3,831 should not have been charged per City Council Resolution 2001-124 because there had been homes on the property previous to 1989, and
WHEREAS, at its meeting on October 9, 2003, the CFF Steering Committee reviewed and supported this item, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of a refund to Habitat for Humanity for $3,831 paid in error for Capital Facilities Fees on two properties at 1714 Olympia Street and 530 Butte Avenue; and to consider approval of a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street, and approval of a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a refund to Habitat for Humanity for $3,831 paid in error for Capital Facilities Fees on two properties at 1714 Olympia Street and 530 Butte Avenue located outside of the City Limits, but within the Sphere of Influence.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a refund agreement with Habitat for Humanity.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 11th day of December, 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: Frohman, Hawn, Jackman, Marsh,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

Attest: [Signature]
JEAN FAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

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

WHEREAS, notice has been duly given to notify the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began November 10, 2003, and ended on December 11, 2003, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 21, 2003, and December 1, 2003, meetings, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2003-2004 Annual Action Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the 2003-2004 Annual Action Plan as presented to the Council is hereby approved, a copy of said Amendment to the 2003-2004 Annual Action Plan is attached hereto as Exhibit "A" and incorporated herein by reference.

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: Keating, O’Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
<table>
<thead>
<tr>
<th>FY03-04 CDBG Funding Amendment</th>
<th>Prior Year FY03-04 Plan Changes</th>
<th>Amended Total</th>
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Exhibit A (CDBG)
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<td>Plan</td>
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<td><strong>HOME TOTAL</strong></td>
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<td><strong>1,190,162</strong></td>
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<td>FY03-04 ESG Funding</td>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2003-655

A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN.

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

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

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

WHEREAS, these program changes require re-allocation of operating budget funds, and

WHEREAS, re-allocation of these funds is more fully described on Exhibit "A", attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 21, 2003, and December 1, 2003, meetings, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010
Tenth Street, to consider approval of the proposed amendments to the 2003-2004 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2003-2004 Annual Operating Budget is hereby amended to reallocate the Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME) and Emergency Shelter Grant (ESG) as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

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 11th day of December, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
### FY03-04 Operating Budget Adjustments for the HUD Annual Action Plan

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<th>Orgn</th>
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<th>Unit</th>
<th>Current Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
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<tbody>
<tr>
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<td>Salary &amp; Wages, Part-time</td>
<td>1130</td>
<td>320</td>
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<td>$0</td>
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<td>3513</td>
<td>na</td>
<td>$650,320</td>
<td>-$20,000</td>
<td>$630,320</td>
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**Justification:** Adjustments reflect the budget for the Analysis of Impediments to Fair Housing, and a decrease in the amount of funding budgeted for administration of the CDBG Program, due to changes in staff functions brought on by the retirement of the Housing Programs Supervisor.

| Appropriation   | Services City Forces | 1130 | 320 | 3254 | 0255 | 3250C | $251,873 | $3,000 | $254,873 |
| Appropriation   | CDBG - Direct Grants | 1130 | 320 | 3254 | 0496 | 3250C | $468,500 | $68,573 | $537,073 |
| Appropriation   | Direct Loans | 1130 | 320 | 3254 | 0497 | 3250C | $300,000 | $120,000 | $420,000 |
| Revenue         | CDBG Entitlement | 1130 | 320 | 3254 | 3513 | na | $1,201,251 | $191,573 | $1,492,824 |

**Justification:** Adjustments reflect an increase of $3,000 for property agent, a net adjustment of $68,573 in public service activities and $120,000 for Down Payment Assistance Program (DPAP).

| Appropriation   | Construction | 1130 | 320 | 3212 | 6040 | 3250C | $91,000 | $74,000 | $165,000 |
| Revenue         | CDBG Carryover | 1130 | 320 | 3212 | 3511 | na | $0 | $76,573 | $76,573 |
| Revenue         | CDBG Entitlement | 1130 | 320 | 3212 | 3513 | na | $143,920 | -$102,573 | $41,347 |
| Revenue         | Direct Loan Principal (Program Income) | 1130 | 320 | 3212 | 6301 | na | $0 | $100,000 | $100,000 |
| Revenue         | CDBG Carryover | 1130 | 320 | 3212 | 3511 | na | $0 | $336,000 | $336,000 |
| Revenue         | Direct Loan Principal (Program Income) | 1130 | 320 | 3212 | 6301 | na | $300,000 | -$200,000 | $100,000 |
| Revenue         | CDBG Carryover | 1130 | 320 | 3212 | 3511 | na | $0 | $336,000 | $336,000 |
| Revenue         | Direct Loan Principal (Program Income) | 1130 | 320 | 3212 | 6301 | na | $300,000 | -$200,000 | $100,000 |

**Justification:** Adjustments reflect an increase of $109,000 for the ADA Improvements Curb Ramps CIP project. Amended project total amount is $252,920.

| Appropriation   | Construction | 1130 | 320 | 3221 | 6040 | 3250C | $195,000 | $136,050 | $331,000 |
| Revenue         | CDBG Carryover | 1130 | 320 | 3221 | 3511 | na | $0 | $336,000 | $336,000 |
| Revenue         | Direct Loan Principal (Program Income) | 1130 | 320 | 3221 | 6301 | na | $300,000 | -$200,000 | $100,000 |
| Revenue         | CDBG Carryover | 1130 | 320 | 3221 | 3511 | na | $0 | $336,000 | $336,000 |
| Revenue         | Direct Loan Principal (Program Income) | 1130 | 320 | 3221 | 6301 | na | $300,000 | -$200,000 | $100,000 |

**Justification:** Adjustments reflect an increase of $170,000 for the Street Paving in Low Income Areas CIP project. Amended project total amount is $478,400.

| Appropriation   | Direct Loans | 1170 | 320 | 3259 | 0497 | 3250C | $1,035,068 | $1,236,460 | $2,271,708 |
| Revenue         | HOME Carryover | 1170 | 320 | 3259 | 3512 | na | $0 | $1,236,460 | $1,236,460 |

**Justification:** Adjustment reflect HOME carryover money from FY98-99 and FY99-00 of $1,236,460 for Affordable Housing projects. Amended total amount is $2,271,708.

| Appropriation   | HOME Total Appropriation | 1170 | 320 | 3259 | 0497 | 3250C | $1,035,068 | $1,236,460 | $2,271,708 |
| Revenue         | HOME Total Revenue | 1170 | 320 | 3259 | 3512 | na | $0 | $1,236,460 | $1,236,460 |

Exhibit A
(Operating Budget Adjustments to AAP)
A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 FUNDING FOR THE CAPITAL IMPROVEMENT BUDGET TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN.

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

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

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

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

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

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its November 21, 2003, and December 1, 2003, meetings, and the Committee recommended that the City Council approve the amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010
Tenth Street, to consider approval of the proposed amendments to the 2003-2004 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2003-2004 funding for the Capital Improvement Plan Budgets are hereby amended to estimate new revenue, appropriate new expenses and reallocate HUD Funds as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the 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 11th day of December, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, City Attorney
<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Revenue</th>
<th>App Unit</th>
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<tr>
<td>Appropriation</td>
<td>Construction</td>
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<td>$50,000</td>
<td>$50,000</td>
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<tr>
<td>Revenue</td>
<td>CDBG Carryover</td>
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<td>320</td>
<td>3254</td>
<td>3511</td>
<td>na</td>
<td>$0</td>
<td>$50,000</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

Justification: Increase funding of $50,000 for construction of the elevator project at the Centre Plaza (N440). Amended project total amount is $357,000.

| Appropriation   | Engineering/Design/Admin | 2300  | 310    | N992 | 6010    | N992      | $41,750           | $20,000              | $61,750          |
| Revenue         | Construction             | 2300  | 310    | N992 | 6040    | N992      | $157,750         | $20,000              | $177,750         |
| Appropriation   | Transfer in from Fund 1130 | 2300  | 700    | N992 | 9113    | na        | $241,000         | $40,000              | $281,000         |
| Appropriation   | Transfer out to Fund 2300 | 1130  | 700    | N992 | 7220    | N992G     | $0               | $40,000              | $40,000          |
| Revenue         | CDBG Carryover          | 1130  | 320    | 3254 | 3511    | na        | $0               | $40,000              | $40,000          |

Justification: Increase funding of $40,000 for ADA improvements at the King Kennedy Center (N992). Amended project total amount is $281,000.

| Appropriation   | Construction             | 2300  | 310    | Q245 | 6040    | Q245      | $273,000          | $5,100               | $278,100         |
| Revenue         | Transfer in from Fund 1130 | 2300  | 700    | Q245 | 9113    | na        | $372,000         | $5,100               | $377,100         |
| Appropriation   | Transfer out to Fund 2300 | 1130  | 700    | Q245 | 7230    | Q245G     | $0              | $5,100               | $5,100          |
| Revenue         | CDBG Carryover          | 1130  | 320    | 3254 | 3511    | na        | $0              | $5,100               | $5,100          |

Justification: Increase funding of $5,100 for street paving for the Hillside Drive - Orville Wright Park Project (Q245). Amended project total amount is $397,100.

| Appropriation   | Construction             | 2300  | 310    | Q240 | 6040    | Q240      | $96,725           | $200,000             | $296,725         |
| Revenue         | Transfer in from Fund 1130 | 2300  | 700    | Q240 | 9113    | na        | $0              | $200,000             | $200,000         |
| Appropriation   | Transfer out to Fund 2300 | 1130  | 700    | Q240 | 7230    | Q240G     | $0              | $200,000             | $200,000         |
| Revenue         | CDBG Carryover          | 1130  | 320    | 3254 | 3511    | na        | $0              | $200,000             | $200,000         |

Justification: Increase funding of $200,000 for street paving for the Conant/Rumble Side Walk Improvement Project (Q240). With funding of $150,000 from an HUD Economic Development Initiative (EDI) Grant; the amended project total amount is $350,000.

| Appropriation   | Engineering/Design/Admin | 2300  | 310    | Axx  | 6010    | Axx      | $0               | $55,000              | $55,000          |
| Revenue         | Transfer in from Fund 1130 | 2300  | 700    | Axx  | 9113    | na        | $0               | $55,000              | $55,000          |
| Appropriation   | Transfer out to Fund 2300 | 1130  | 700    | Axx  | 7230    | Axx      | $0               | $55,000              | $55,000          |
| Revenue         | CDBG Carryover          | 1130  | 320    | 3254 | 3511    | na        | $0               | $55,000              | $55,000          |

Justification: New CIP Project: Hillside Drive Improvement - Kerr Avenue to South Santa Cruz.

The $55,000 in funding will be used to develop the construction documents and associated environmental documentation to improve Hillside Drive from the intersection of Kerr Avenue to the intersection of South Santa Cruz. The improvements to this section of Hillside Drive will include street paving, curb, gutter, sidewalk, retaining walls, storm drainage, and post and cable barrier fence along the south side of the street. Future funding will provide for the construction of these planned improvements.

Exhibit A

(CIP Budget Adjustments to AAP)
## FY03-04 Capital Improvement Projects Budget Adjustments for the HUD Annual Action Plan

<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Object/App</th>
<th>Fund</th>
<th>Agency</th>
<th>Orgn</th>
<th>Revenue</th>
<th>Unit</th>
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<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
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<td>Axxx</td>
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<td>700</td>
<td>Axxx</td>
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<td>Axxx</td>
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<td>$305,752</td>
<td>$305,752</td>
<td>$305,752</td>
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<tr>
<td>Revenue</td>
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<td>1130</td>
<td>320</td>
<td>3254</td>
<td>3511</td>
<td>na</td>
<td>$0</td>
<td>$305,752</td>
<td>$305,752</td>
<td>$305,752</td>
</tr>
</tbody>
</table>

### Justification:

New CIP Project: Social Security Building Retrofit

Funds will be used to renovate the existing structure located at 12th and M Streets, if the City is the successful applicant for this surplus federal property. It is estimated that the building will need a new roof, upgrades to the electrical system, as well as renovations to the interior consistent with its proposed use. The proposed use is a centralized location for homeless adults, families and children to get access to needed resources. An example of the proposed services are: Mental Health Counseling and Referral, Housing Resources (motel vouchers, information on emergency, transitional and long term housing programs, housing counseling), Fair Housing Counseling, Referral to Food Banks and meal programs, Information and Referral on physical health care. Many current non-profits will be moving into this One-Stop Center.

### Justification:

Reallocate revenue and appropriation for the Neighborhood Center at Marshall Park (M163).

This project was reduced by $166,485 upon receipt of the Jobs Housing Balance Grant from the State of California in October 2003. However, as stated in the HUD 2003-2004 Annual Action Plan Amendment, staff feel it would be most prudent to leave that funding in the project for the time being, until complete construction costs for the project are known.

### CDBG Total Appropriation

- $695,500

### CDBG Total Revenue

- $920,000

Exhibit A
(CIP Budget Adjustments to AAP)
A RESOLUTION AMENDING THE FISCAL YEAR 2003-2004 ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENT BUDGET TO REFLECT REVENUES AND APPROPRIATIONS AS ADOPTED.

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

WHEREAS, the City Council, at its May 13, 2003, meeting approved the adoption of the 2003-2004 Annual Action Plan, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2003-2004 Annual Operating Budget and Capital Improvement Budget are hereby amended to reflect adjustments to the HUD fund as indicated on Exhibit “A” attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the 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 11th day of December, 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: Frohman, Hawn, Jackman, Marsh,
                        Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

Attest: ____________________________
        JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________________________
    MICHAEL D. MILICH, City Attorney
## FY03-04 Operating Budget Adjustments for HUD Funds

<table>
<thead>
<tr>
<th>Type of Account</th>
<th>Description</th>
<th>Object/Unit Code</th>
<th>Revenue</th>
<th>Current Unit Budget ($)</th>
<th>Adjustment Amount ($)</th>
<th>Revised Budget ($)</th>
</tr>
</thead>
<tbody>
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<td>A) Revenue</td>
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<td>$0</td>
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<td>Justification:</td>
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<tr>
<td>C) Revenue</td>
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<tr>
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<td>D) Appropriation</td>
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<td></td>
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<tr>
<td>Justification:</td>
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<tr>
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Exhibit A
(Operating Budget Adjustments to HUD funds)
A RESOLUTION AUTHORIZING STAFF TO SOLICIT A REQUEST FOR PROPOSALS IN AN AMOUNT UP TO $69,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS TO PROVIDE WINTER SHELTER FOR HOMELESS INDIVIDUALS AND FAMILIES.

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

WHEREAS, these funds may be used to provide shelter for homeless individuals and families, and

WHEREAS, funding for this project in the amount of $69,000 is included in the proposed amendments to the City’s Annual Action Plan to be submitted to HUD, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the recommendation to solicit RFP’s for emergency winter shelter for Homeless individuals and families at its December 1, 2003, meeting, and the Committee recommended that the City Council approve authorizing staff to solicit said RFP’s, and

WHEREAS, by Resolution No. 2003-654, on December 11, 2003, the City Council approved the proposed amendments to the 2003-2004 Annual Action Plan, which include $69,000 in funding for emergency winter shelter for homeless individuals and families,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit a Request for Proposals in an amount up to $69,000 in Community Development Block Grant (CDBG) funds to provide winter shelter for homeless individuals and families.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 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: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-659

A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION (SCH NO. 2003102055) FOR THE FAIRVIEW VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2003-1

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, on December 12, 1995, the Final Fairview Village Specific Plan Focused Environmental Impact Report was certified by the City Council of the City of Modesto (SCH# 95032006) for the Fairview Village Specific Plan; and

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified an Update to the Master EIR (SCH#19990820) for the Modesto Urban Area General Plan; and

WHEREAS, the Fairview Village Community Facilities District No. 2003-1 would provide a financing mechanism for infrastructure to serve the 359-acre Fairview Village Specific Plan area as well as for the infrastructure to serve the 82-acre Galas Brothers subdivision located within the Specific Plan area; and

WHEREAS, the City of Modesto proposes to initiate the formation of the Fairview Village Community Facilities District No. 2003-1 which provides financing to construct the Water System, Wastewater System, Storm Drain System, Portion of Central Neighborhood Park (5.61 acres), and Landscaping/Median along Carpenter Road described in detail in the attached Exhibit "A", hereafter referred to as "the project"; and

WHEREAS, the City of Modesto City Council finds that the proposed formation of the Fairview Village Community Facilities District No. 2003-1 is within the scope of the project considered in the Master EIR; and
WHEREAS, the City of Modesto City Council finds that no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified and that no new information, which was not known and could not have been known at the time that the Update to the Master EIR was certified as complete, has become available; 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 as being within the scope of the project; and

WHEREAS, the City’s Community & Economic Development Department prepared an Initial Study leading to a Mitigated Negative Declaration (SCH No. 2003102055), attached hereto as Exhibit “A”, which reviewed the proposed subsequent project pursuant to the City’s 2003 General Plan Master EIR; and

WHEREAS, the Initial Study identified additional potentially significant environmental effects that were not analyzed in the Master EIR or the Focused EIR for the Fairview Village Specific Plan in terms of Water Quality, Water Supplies and Hazardous Materials; and

WHEREAS, the City of Modesto consulted with various state, and local agencies and received input on the proposed Mitigated Negative Declaration and Initial Study; and

WHEREAS, in response to the input received, revisions were made to mitigation measures to clarify or to make more effective identified mitigation measures pursuant to CEQA Guidelines Section 15073.5 (c); and

WHEREAS, Public Resources Code Section 21175.5 permits the adoption of a Mitigated Negative Declaration in this circumstance; and
WHEREAS, feasible mitigation measures were incorporated into the proposed project to revise the project before the Initial Study/Mitigated Negative Declaration was released for public review in order to avoid or mitigate the identified effects to a point where clearly no significant effect on the environment will occur; and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA No. C&ED 2003-86, determined that a Mitigated Negative Declaration should be adopted for the proposed project under the General Plan Master Environmental Impact Report (SCH No. 19990820), and the Fairview Village Focused EIR (SCH No. 95032006); and

WHEREAS, the Draft Mitigated Negative Declaration and Initial Study (SCH No. 2003102055) was released for public review and comment for the required 30-day period ending on November 12, 2003; and

WHEREAS, the City of Modesto Engineering & Transportation Department and Operations and Maintenance Department have reviewed the proposed infrastructure contained in the project, as well as the potential water supply, water well, water quality and hazardous materials impacts and the mitigation measures proposed to address those impacts and have found that the proposed infrastructure is appropriate and sufficient and that the proposed mitigation measures will reduce the potential impacts to levels required by applicable legal standards; and

WHEREAS, the Final Mitigated Negative Declaration (SCH No. 2003102055), incorporates all comments received during the circulation period and response to comments; and

WHEREAS, in response to those comments, no new unavoidable significant effect was identified and mitigation measures or project revisions were required to be added in order to reduce potential effects to less than significance on the Draft Mitigated NegativeDeclaration and Initial Study; and
WHEREAS, further planning studies and environmental review will be required before other areas may develop or annex to the CFD; and

WHEREAS, responses to comments received during the circulation period and a notice of public hearing for adoption, were distributed to commenting agencies for the required ten-day period prior to the public hearing for adoption; and

WHEREAS, the Initial Study/Mitigated Negative Declaration EA/C&ED 2003-86 (SCH No. 2003102055) was considered by the Modesto City Council at a duly noticed public hearing which was held on December 11, 2003, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared for the proposed Project, a copy of which is on file with the City Clerk and incorporated herein by reference, and based on the substantial evidence included in said Initial Study and the whole record of this proceeding makes the following findings:

1. The proposed formation of the Fairview Village Community Facilities District No. 2003-1 is within the scope of the project considered in the Master EIR.

2. That no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified and that no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

3. The Initial Study/Mitigated Negative Declaration (EA C&ED No. 2003-86, attached as Exhibit “A”) prepared for the proposed project pursuant to CEQA Section 21157.1, has identified additional potentially significant
environmental effects that were not analyzed in the General Plan Master EIR. These additional significant effects are potential impacts to Water Quality, Water Supplies and Hazardous Materials.

4. Feasible mitigation measures were incorporated to revise the subsequent project before the Negative Declaration and Initial Study were released for public review in order to avoid or mitigate the effects to a point where clearly no significant effects on the environment will occur. These measures are within the jurisdiction of the City of Modesto to implement and will be effective to reduce the identified potentially significant impacts to a less-than-significant level.

5. All applicable mitigation measures adopted in certifying that the Master EIR, and the Focused EIR remain feasible, within the jurisdiction of the City of Modesto to implement, and effective to reduce the identified potentially significant impacts to a less-than-significant level. These measures are made conditions of approval for the proposed subsequent project.

6. There is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have an unavoidable significant effect on the environment (CEQA Section 21064.5(2)).

7. Based on the previously certified Master EIR and Focused EIR, an Initial Study/Mitigated Negative Declaration is the appropriate document under CEQA in this circumstance.

8. The changes and additions to the proposed project and the Mitigated Negative Declaration/Initial Study do not constitute “significant new
information” within the meaning of CEQA, and therefore recirculation for additional public review and comment is not required.

9. Based on the above referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted for the proposed project pursuant to CEQA Section 21157.5 et seq.

10. Findings 1-9 above provide the substantial evidence to support the certification and adoption of the Initial Study/Mitigated Negative Declaration and City Council finds that the document reflects the independent judgment of the lead agency.

11. As required by CEQA Section 21081.6 et seq., a mitigation monitoring program will be adopted by incorporating the mitigation measures from the Initial Study/Mitigated Negative Declaration and all applicable measures from the Master EIR and Focused EIR into the project.

12. The foregoing findings are based on the whole record of this proceeding before the City of Modesto City Council.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the project. The City of Modesto shall promptly notify the applicant of any claim, action or proceeding and shall cooperate fully in the defense. If the
City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department 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 the regular meeting of the City Council of the City of Modesto held on December 11, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: None

ATTEST
JEAN ZAHR, City Clerk
(SEAL)
APPROVED AS TO FORM:
By: MICHAEL D. MILICH, City Attorney
Exhibit A
Mitigated Negative Declaration for the
Fairview Village Community Facilities District No. 2003-01
CITY of MODESTO

INITIAL STUDY AND FINDINGS
MITIGATED NEGATIVE DECLARATION

FOR A PROPOSED SUBSEQUENT PROJECT
TO MASTER EIR

PROPOSED FAIRVIEW VILLAGE
COMMUNITY FACILITIES DISTRICT NO. 2003-1

DECEMBER 2003
STATE CLEARINGHOUSE NO. 2003102055
INITIAL STUDY AND FINDINGS
DRAFT MITIGATED NEGATIVE DECLARATION
FOR A PROPOSED SUBSEQUENT PROJECT TO THE GENERAL PLAN
MASTER EIR AND THE FAIRVIEW VILLAGE FOCUSED EIR

PROPOSED FAIRVIEW VILLAGE COMMUNITY FACILITIES DISTRICT
NO. 2003-1

EA C&ED – 2003 -86

1. Purpose of Initial Study:

This Initial Study provides review of a project under the City’s General Plan Master EIR (SCH# 1999082041) and the Fairview Village Focused EIR (SCH# 95032006). The project is a proposed formation of a Community Facilities District to provide a financing mechanism for the entire Fairview Village Specific Plan area and, specifically, to fund the infrastructure and maintenance to serve the Galas Brothers Vesting Tentative Subdivision. This Initial Study will review the project pursuant to CEQA Sections 21157.1 and 21157.5.

CEQA Section 21157.5 requires a mitigated negative declaration to be prepared for a proposed subsequent project if both of the following occur:

(1) An Initial Study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.

(2) Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

The proposed Fairview Village Community Facilities District and its facilities would be located in the Fairview Village Comprehensive Planning District, an area which was analyzed in the General Plan Master EIR (MEIR), and the Fairview Village Specific Plan Focused EIR and are currently contained in the General Plan. This initial study will determine if there would be new or potentially significant effects from the project, and if so, whether mitigation or alternatives can be provided to avoid or reduce the effects to a level of insignificance.

This Initial Study/Mitigated Negative Declaration includes the results of a 30-day Public Review from circulation of the Draft Mitigated Negative Declaration from October 13 through November 12, 2003. Eleven (11) letters of comment were received. These letters and a written response to each one are contained in Section XXII.

This Initial Study provides environmental review based on the City’s General Plan Master EIR (SCH No. 19990820) and the Fairview Village Specific Plan EIR (SCH No. 95032006).


3. Lead agency name and address: City of Modesto, P.O. Box 642, Modesto, CA 95353
4. **Contact person and phone number:** Patrick Kelly, Community and Economic Development Department (209) 577-5268.

5. **Project location:** Fairview Village Specific Plan Area, Galas Brothers Subdivision, southwest Modesto Urban Area, south side of Hatch Road east of Carpenter Road (see attached Exhibit “A”).

6. **Project sponsor’s name and address:** City of Modesto, P.O. Box 642, Modesto CA 95353

7. **General Plan Designation:** Fairview CPD – Village Residential (VR)

8. **Zoning:**
   - East ½ of area = SP-O, Specific Plan Overlay
   - West ½ of area = P-SP-O, Prezone Specific Plan Overlay

9. **Project Description:**
   The project consist of formation of the Fairview Village Community Facilities District No. 2003-1 ("Fairview Village CFD"). The project includes the creation of a financing mechanism to fund construction of certain regional infrastructure within the Fairview Village Specific Plan area. A portion of the plan area contains the Galas Brothers Vesting Tentative Subdivision Map Units 1 & 2, consisting of 81.66 acres located in the northeast portion of the Fairview Village Specific Plan ("Galas Subdivision"). Development of the Galas Subdivision includes 383 single-family residential lots, a water well, storm drainage basin, water tank, sewer outfall line and a portion of the central neighborhood park site and its related infrastructure.

   The Fairview Village CFD will fund a portion of the infrastructure and its maintenance (see attached Exhibits "B" and "C"). The Galas Subdivision will be responsible for constructing a portion of this infrastructure, will be subject to the CFD tax and may be entitled to certain reimbursements for that work.

   The remaining properties within the 359-acre Fairview Village Specific Plan area (listed below as Future Annexation Area) will annex to this CFD in the future, as that area develops (see attached Exhibit "D"). Further planning studies and environmental review will be required before the properties may develop or annex to the CFD."

Formation of Fairview Village CFD No. 2003-1 includes the following property shown on the “CFD Boundary Map”, attached Exhibit “D”:

**Galas Brothers Subdivision:**
- Assessors Parcel No. 056-027-002, 82.61 Acres, (Norman Galas, et.al.)

Formation of the CFD also provides a financing mechanism for construction and maintenance of the infrastructure to serve the remaining properties within the 359-acre Fairview Village Specific Plan area (listed below as Future Annexation Area) which will ultimately annex to this CFD as the area develops (see attached map-Galas Brothers Subdivision and Future Annexation Area, attached Exhibit "E").
Future Annexation Area:
Assessors Parcel No. 056-027-009
Assessors Parcel No. 056-027-010
Assessors Parcel No. 056-028-007
Assessors Parcel No. 056-028-008
Assessors Parcel No. 056-028-003
Assessors Parcel No. 056-028-014
Assessors Parcel No. 056-028-012
Assessors Parcel No. 056-028-010
Assessors Parcel No. 056-028-015

The Community Facilities District will pay for the following infrastructure (and its maintenance) to serve the Galas Brothers Subdivision, as follows:

Water System:
- Water Well
- Distribution Pipe Lines
- Well-head treatment system
- Surface water supply pipe line
- Water tank and booster pumps

The Galas Brothers Subdivision will install one (1) well and associated pump and motor, chlorination facility, electrical and communication equipment, pump house, one (1) storage tank, booster pump station, well-head treatment system and backup generator. In addition, the Galas Subdivision will install a 20” diameter water line from the intersection of Hatch Road and Carpenter Road, to the storage tank site. The water system will be located at the east boundary of the subdivision on Ironside Drive. Flush water from the tank will discharge through the sanitary sewer system.

Wastewater system:
- Lift station
- Force main

The Galas Brothers Subdivision will install one (1) lift station containing two (2) interim pumps with space for an additional future pump, associated electrical and communication equipment; 8” sanitary sewer force main from the lift station to the east boundary of the subdivision on Ironside Drive, connecting to an existing 15” sub-trunk. The sanitary sewer lift station will be located immediately adjacent to the storm drain detention basin. The influent gravity lines in Salazar Circle will be sized to accommodate future flows from the Specific Plan area.

Storm Drain System
- Lift station
- Force Main to Basin
- Gravity line to outfall line
The Galas Brothers Subdivision will install one (1) lift station containing two (2) interim pumps with space for an additional future pump, associated electrical and communication equipment; 30-inch diameter trunk line from the new detention basin to Hatch Road and along Hatch Road to Ustick Road where it will connect into an existing 30-inch diameter line in Ustick Road that runs north and discharges into the Tuolumne River. Gravity lines in Salazar Circle will be sized to accommodate future flows from the Specific Plan area.

Portion of Central Neighborhood Park (5.61 acres)
- Park/Basin
- Class I Non-motorized Trail
- Lighting

The Galas Brothers Subdivision will contain a 3.2 acre open space area located adjacent to a 1.4 acre basin. There shall be a 6' decorative fence separating the basin from the open space area. There will be a walking path loop around the basin and open space area. The path will be made of concrete, five to six feet wide, with a level shoulder on either side of no less than 4 feet. The open space area will have a play area, irrigated turf, shrubs and several shade trees. There will be a drinking fountain, benches and picnic tables located in a centralized area.

The Class I Non-Motorized Trail will be located on top of the 40-foot wide sewer easement from the open space area to Hatch Road. The trail will be ten feet wide with a two-foot shoulder of decomposed granite on either side. The trail will be landscaped with several trees and plantings, with accent plantings at the intersections and entry points.

Landscaping/Median along Carpenter Road
- Parkways

The landscaping in the median and along Carpenter Road shall incorporate parkway plantings to complement the Fairview CFD facilities. This shall consist of trees with a high canopy and shrubs that have a low growth habit (2.5 feet or less in height), and groundcovers. This area shall be automatically irrigated and maintained as part of the CFD.

The Galas property is to be included in the Fairview Village CFD as required by the approved Galas Brothers Vesting Tentative Subdivision map, to pay for their share of infrastructure costs under the CFD.

Based on requirements to serve the ultimate specific plan buildout land uses, some facility oversizing will need to occur in the Galas Subdivision. Reimbursement mechanisms exist to compensate the property developers for this oversizing.

Future amendments to the adopted Specific Plan land uses or infrastructure will require separate environmental analysis and corresponding amendments to the Community Facilities District.

10. **Surrounding Land Uses:**
- North: Tuolumne River Riparian area and River
- South: County Agricultural lands
- East: Single family subdivisions, City and County
- West: County Agricultural lands and disposal facility

11. **Other public agencies whose approval is required:** None
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below are potentially new or additional significant impacts that were not analyzed in the certified Master EIR or Focused EIR that would be potentially affected by this project involving at least one impact that is a “Potentially Significant Impact” as indicted by the Checklists on the following pages.

The following factors are based on Appendix G of the CEQA Guidelines and adapted to reflect the eighteen environmental subject areas analyzed by the City of Modesto’s General Plan Master EIR:

[ ] Traffic & Circulation [ ] Loss of Wildlife/Plant Habitat [ ] Increased Demand Police

[ ] Degradation of Air Quality [ ] Disturb Archaeological/Historic [ ] Increased Demand Fire

[ ] Generation of Noise [ ] Drainage/Flooding /Water Quality [ ] Generation of Solid Waste

[ ] Loss of Productive Ag Land [ ] Increased Demand Storm Drainage [ ] Increased Demand Water Supplies

[ ] Increased Demand Water Supplies [ ] Increased Demand Parks/OpenSpace [ ] Energy

[ ] Increased Demand Sewer Service [ ] Increased Demand Schools [ ] Landslides/Seismic Activity

[ ] Mandatory Findings of Significance [ ] Aesthetics [ ] Land Use/Planning

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

[ ] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

[ ] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

Signature

Date

Printed Name

For
EVALUATION OF ENVIRONMENTAL IMPACTS:
FOR A PROPOSED SUBSEQUENT PROJECT TO MASTER EIR

The following sections evaluate the proposed subsequent project to the City's General Plan Master EIR and Fairview Village Focused EIR pursuant to CEQA Section 21157.1 (b) whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and/or the Focused EIR. And, if so make a determination pursuant to Section 21157.5 which requires a mitigated negative declaration to be prepared for a proposed subsequent project if both of the following occur:

1. An initial study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.

2. Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

The analysis in this document includes the identification of project-related impacts that would be less-than-significant with mitigation incorporated. Some of those impacts are new or additional impacts not previously identified and some of those impacts were previously identified in the General Plan Master EIR (SCH No. 19990820) or Fairview Village Specific Plan Focused EIR (SCH No. 95032006). This document serves to ensure that the mitigation measures also identified in the Master EIR and/or Focused EIR are incorporated into the project to keep those impacts at a less-than-significant level.

The Determination Section XXII indicates which impacts are new or additional impacts and which impacts were previously analyzed and mitigation provided.

The following analysis is based on Appendix G of the CEQA Guidelines and adapted to reflect the eighteen environmental subject areas in the City of Modesto's General Plan Master EIR:

<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

I. TRAFFIC and CIRCULATION NEEDS – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR adopted for the Specific Plan, will the project result in increased impacts to:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

Mitigated Negative Declaration
Fairview Village CFD 2003-1
December 2003

EA/C&ED No. 2003-86
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? [X]

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? [X]

e) Result in inadequate emergency access? [X]

f) Result in inadequate parking capacity? [X]

g) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? [X]

I. TRAFFIC AND CIRCULATION, Continued:
The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Traffic and Circulation (Pages V-1-1 through V-1-33) remain valid for the reasons listed below.

Discussion:

a) The proposed Fairview Village CFD No. 2003-1 facilities financing district would have no impact with regards to increased impacts to the City’s roadway system because for the Galas Subdivision the density and intensity of the proposed development is within that assumed in the General Plan Traffic Model, the street system in the proposed Final map was reviewed and approved by City’s Engineering and Transportation Department, and will be constructed to City Standards, thus the facilities to be constructed and land use are essentially consistent with those assumed in the analysis of the General Plan Master EIR and adopted Specific Plan Focused EIR. Therefore, it will not create a significant increase in traffic generation. Additionally, the development served by the CFD will contribute to the construction of Citywide facilities, such as Hatch Road, to provide capacity and level-of-service per City Standards through 2003 Capital Facilities Fees program.

b) Because the Fairview Village CFD No. 2003-1 would not revise adopted land use, and the density of development is within the range analyzed by the General Plan Traffic Model, and the facilities to serve the Galas Brothers subdivision would be essentially consistent with the adopted Specific Plan, there are no additional traffic and circulation impacts associated with the facilities proposed for financing by the Community Facilities District No. 2003-1 beyond those already studied in the adopted Master EIR and Focused EIR. Therefore, the proposed facilities would have no impact to contributing to traffic exceeding the adopted level of service for the City’s General Plan street system. Additionally, the development served by the CFD will contribute to the construction of Citywide facilities, such as Hatch Road, to provide capacity and level-of-service per City Standards through 2003 Capital Facilities Fees program.

c) Because the proposed Fairview Village CFD No. 2003-1 facilities would not result in a significant land use change from the adopted General Plan or Fairview Village Specific Plan, there would be no impact to a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.
d) Because the proposed Fairview Village CFD No. 2003-01 facilities would be served by essentially the same roadway system that is in the adopted General Plan and Fairview Village Specific Plan, and the street system for the Final Map of Galas Brothers Subdivision has been reviewed by the City’s Engineering and Transportation Department for conformance with City’s Standards, there would be no impact to Substantially increased hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses.

e) Because the facilities to be installed and maintained by the Fairview Village CFD 2003-01 would be consistent with the facilities in the adopted Specific Plan as analyzed by the Master EIR and Focused EIR, and would be served by planned adjacent roadways in the Galas Brothers Subdivision providing direct access, there would be no impact to a result in inadequate emergency access.

f) Because the Fairview Village CFD No. 2003-1 facilities to be constructed and the land uses it serves, specifically, the Galas Brothers subdivision, are required to meet City of Modesto parking standards there would be no impact to inadequate parking capacity.

g) Because the Fairview Village CFD No. 2003-1 would be financing the construction of bikeways/ walkways, and facilities supporting the bus system to implement an adopted Specific Plan, there would be no conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks).

II. DEGRADATION OF AIR QUALITY - Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR certified for the Specific Plan, will the project result in increased impacts to:

<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact</th>
<th>With Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ X ]</td>
<td></td>
</tr>
<tr>
<td>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ X ]</td>
<td>[ ]</td>
<td></td>
</tr>
<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ X ]</td>
<td></td>
</tr>
<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ X ]</td>
<td></td>
</tr>
<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
<td>[ X ]</td>
<td></td>
</tr>
</tbody>
</table>
II. DEGRADATION OF AIR QUALITY

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Increased Demand for Degradation of Air Quality (Pages V-2-1 through V-2-26) remain valid for the reasons listed below.

Discussion:

a) Because the Fairview Village CFD No. 2003-1 and the corresponding infrastructure to serve the Galas Brothers subdivision is consistent with the adopted Specific Plan and because City of Modesto General Plan policies reflecting the Air Districts Air Quality Plan (AQ-1 through AQ-18, MEIR) will be applied Citywide and to development of the Specific Plan area to reduce emission of pollutants, and the density of development to be served is within the range analyzed by the General Plan Air Quality modeling, it would not generate significantly greater traffic or significantly increase areas of public facilities beyond that analyzed by the Master EIR, there would be no impact to conflict with or obstruct implementation of the San Joaquin Valley Unified Air Pollution Control District air quality plan. Because air quality impacts cannot be reduced to a less-than-significant level, when the Master EIR was certified, the City adopted overriding findings for air quality impacts associated with project-generated traffic. Applicable Air District project planning measures (Table 2-3 MEIR, Page 46, Focused EIR) have been applied to the project at the Specific Plan and subdivision design stage to reduce vehicle use and associated emissions.

b) Because the proposed Fairview Village CFD No. 2003-1 facilities financing mechanism would fund facilities similar to those analyzed by the General Plan Master EIR, or Focused EIR, the project would have a less than significant impact to any air quality standard or would not contribute substantially to an existing or projected air quality violation. The primary impact would be construction-related air quality impacts which would be mitigated by application of SJVUAPCD Regulation VIII, (Fugitive Dust Rules). This impact is not a new or additional project-specific significant impact identified by this Initial Study. Rather, this is an impact identified by the Master EIR for new development and although the City has adopted overriding findings for PM10 impacts that remain significant, the following mitigation would provide project-specific reduction of impacts for PM10.

The following is an appropriate existing measure incorporated into the project from the Master EIR:

MITIGATION MEASURE- AIR QUALITY:

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

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

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

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

4. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.
5. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

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

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

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

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

b. Enhanced Control Measures. The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

1. Limit traffic speeds on unpaved roads to 15 mph; and

2. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

San Joaquin Valley Unified Air Pollution Control District – Regulation VIII (Fugitive Dust Rules). Full text of the measure is included in Exhibit F.

c) Because the Fairview Village CFD No. 2003-1 facilities to be constructed (or the land uses it would serve) would not generate significantly greater traffic than was analyzed in the Master EIR and/or the Focused EIR, there would be no impact to a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). Because the region is designated severe non-attainment for Ozone and PM10 for State Standards, and severe non-attainment for Ozone by the EPA and air quality impacts are significant and unmitigable, the City has adopted Overriding Considerations for Air Quality Impacts. However, the proposed Galas Subdivision at 4.3 dwelling units per acre is below the density and intensity assumed by the General Plan Traffic Model/Air Traffic Model of 5.1 dwelling units per acre. Thus, no contribution to net increase in emissions.

d) Because the Fairview Village CFD No. 2003-1 would not significantly increase the number or type of facilities constructed in the adopted Specific Plan, there would be no impact to increase in exposure of sensitive receptors to substantial pollutant concentrations beyond that which was studied in the Master EIR.

e) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be consistent with the facilities in the adopted Specific Plan, there would be no impact to creation of objectionable odors affecting a substantial number of people?
III. **NOISE** – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR certified for the Specific Plan, will the project result in increased impacts to:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Noise (Pages V-3-1 through V-3-22) remain valid for the reasons listed below.

**Discussion:**

a) Because the facilities constructed and corresponding land uses served by the proposed Fairview Village CFD No. 2003-1, are essentially the same as the adopted Specific Plan that was analyzed by the Focused EIR, and the CPD analyzed by the General Plan Master EIR, impacts would be similar. The Focused EIR identified that development of the Specific Plan area, which includes the infrastructure, would result in less than significant impacts to exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.
Operation of proposed facilities such as pump stations, well sites, or booster pumps will not exceed City Noise Standards for residential areas for exterior or interior levels. These facilities are designed for quiet operations to be within CCR Title 24 Standards.

Although the Focused EIR identified noise impacts to school facilities within the Fairview Village specific plan area, neither the existing elementary school on Whitmore Avenue, or the future elementary school to be constructed would be affected by construction of the Fairview Village CFD No. 2003-1 facilities.

The Focused EIR identified the significant noise impacts that would be mitigated: "No significant effects outside of those identified in the General Plan Master EIR are anticipated. Construction-related, transportation-related, and commercial noise impacts can be mitigated in most instances through implementation of the measures identified in the General Plan Master EIR."

Incorporation of the following existing measure from the Master EIR would reduce impacts:

MITIGATION MEASURE – NOISE 1:

Modesto Noise Ordinance. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

1. A hammer, or any other device or implement used to pound or strike an object.
2. An impact wrench, or other tool or equipment powered by compressed air.
3. A hand-powered saw.
4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
7. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
Policy VII-G.3[a] The City of Modesto shall require noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following:

1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

2. Other proposed uses: the noise/land use compatibility guidelines (i.e., those noise levels which are "conditionally acceptable," "normally Unacceptable," or "clearly unacceptable," ) shown in Table 1 and the most recent noise contours for the City shown in Figure VII-1 [of the City's Urban Area General Plan].

b) Because the proposed Fairview Village CFD No. 2003-1 facilities to be constructed, including water well, tank, and pump sites are designed to be compatible with residential neighborhoods, their construction and/or operation would result in less than significant impact to exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

c) Because the proposed facilities that would be constructed by the Fairview Village CFD No. 2003-1 including pumps, lift stations, water wells, tanks and their associated facilities are designed to be compatible with residential neighborhoods, their development would result in no impact to substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

d) Because development of the proposed facilities by the Fairview Village CFD No. 2003-1, would cause temporary construction-related noise impacts, that can be reduced or avoided by the application of existing mitigation measures from the Master EIR, Measures N-4, 5, 6 & 7, Pages V-3-10, V-3-11 and V-3-12, Master EIR, would result in a less than significant impact to a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. Mitigation measures to be applied to the project from the Master EIR, that are cited in item a) above will mitigate these temporary construction-related impacts to less than significant.

The Focused EIR identified the following mitigation measure to reduce noise impacts to schools within the Plan Area:
MITIGATION MEASURE – NOISE 2:

Prior to construction activities in the vicinity of the existing school and the proposed new elementary school, the project applicant shall develop a schedule of construction activities during school hours acceptable to the Modesto City School District to reduce construction noise impacts to schools.

e) Because the facilities proposed to be financed and constructed by Fairview Village CFD No. 2003-1 would be located in the Planned Urbanizing area (future growth area) of the General Plan, outside the noise contour of the Airport, that were analyzed in the General Plan Master EIR, their development would result in no impact to a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would not expose people residing or working in the project area to excessive noise levels.

f) Because the planned public facilities that would be financed and constructed by the Fairview Village CFD No. 2003-1 would be located in the Planned Urbanizing area (future growth area) of the General Plan, where there are no private airstrips, and these facilities were analyzed in the General Plan Master EIR, their development would result in no impact to a project within the vicinity of a private airstrip, nor would the project expose people residing or working in the project area to excessive noise levels.

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<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact</th>
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<tr>
<td>IV. LOSS OF PRODUCTIVE AGRICULTURAL LAND – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR for the adopted Specific Plan will the project result in increased impacts to:</td>
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<td>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</td>
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<td>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
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<td>c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?</td>
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IV. LOSS OF PRODUCTIVE AGRICULTURAL LAND

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (Pages V-4-1 through V-4-12) remain valid for the reasons listed below.
Discussion:

a) As identified in the MEIR and the Focused EIR, development of the planned facilities would result in the conversion of prime agricultural land. Mitigation is provided for home buyers, but does not apply to Public Facilities. Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 within the Fairview Specific Plan portion of the Planned Urbanizing Area of the adopted General Plan were covered by the General Plan Master EIR (MEIR), there would be no impact to conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. City of Modesto policies requiring compact development have been applied to the Specific Plan and its subsequent development to minimize impacts. When certifying the Master EIR the City has adopted findings of overriding considerations regarding the conversion of Agricultural lands.

b) As identified in the MEIR and the Focused EIR, development of the planned facilities would result in the conversion of prime agricultural land. Mitigation is provided for home buyers, but does not apply to Public Facilities. Because the proposed Facilities to be constructed by the proposed Fairview Village No. 2003-1 would be located in the adopted Fairview Village Specific Plan area within the Planned Urbanizing Area of the adopted General Plan covered by the General Plan Master EIR (MEIR), there would be no impact to conflicts with existing zoning for agricultural use, or a Williamson Act contract. Although construction of the facilities along with development of the subdivision would remove agricultural land from production, operation of these CFD facilities would have no impact on agricultural uses. Appropriate overriding findings were adopted regarding conversion of productive agricultural lands with the adoption of the Master EIR.

c) As identified in the MEIR and the Focused EIR, development of the planned facilities would result in the conversion of prime agricultural land. Mitigation is provided for home buyers, but does not apply to Public Facilities. Because the facilities to be constructed by the Fairview Village CFD NO. 2003-1 would be located on approved subdivision site within the adopted Fairview Village Specific Plan area of the Planned Urbanizing Area of the adopted General Plan covered by the General Plan Master EIR (MEIR), there would be no impact to involvement of other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. City of Modesto policies requiring compact development have been applied to the Specific Plan and its subsequent development to minimize impacts. When certifying the Master EIR the City has adopted findings of overriding considerations regarding the conversion of Agricultural lands.
V. INCREASED DEMAND FOR WATER SUPPLIES -

Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR for the adopted Specific Plan will the project result in increased impacts to:

a) Are there sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

b) Require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effect?

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The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (Pages V-5-1 through V-5-13) remain valid for the reasons listed below.

Discussion:

a) Because the water supply facilities proposed to be constructed by the Fairview Village CFD No. 2003-1 would be part of the City's conjunctive use system, where groundwater would be blended with surface water supplies through the use of a well and storage tank, the proposed Fairview Village CFD No. 2003-1 will result in less than significant impact to water supplies available to serve the project from existing entitlements and resources, and no new expanded entitlements would be needed.

b) Because the water supply facilities proposed to be constructed by the Fairview Village CFD No. 2003-1 and the demand created by the land uses it would serve would exceed the available potable surface and groundwater supplies (with treatment), there will be a need to construct new treatment facilities (i.e., storage tanks and treatment facilities). Therefore, the proposed Fairview Village CFD No. 2003-1 will have a less than significant impact with mitigation incorporated. A storage tank and wellhead treatment system will be required as a mitigation measure.

MITIGATION MEASURE – WATER SUPPLIES:

The following new project-specific mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of less than significant impact with mitigation incorporated any potential impacts for effects to Water Supplies:

The project requires the installation of a 500,000 gallon storage tank. Measures to mitigate water quality effects are outlined in Section IX – Flooding and Water Quality.
VI. INCREASED DEMAND FOR SANITARY SEWER SERVICE

- Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR certified for the Specific Plan, will the project result in increased impacts to:

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<tr>
<td>a) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?</td>
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<td>b) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
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<td>c) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effect?</td>
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VI. INCREASED DEMAND FOR SANITARY SEWER SERVICE

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (Pages V-8-1 through V-8-21) remain valid for the reasons listed below.

Discussion:

a) The proposed facilities to be constructed by the Fairview Village CFD No. 2003-1 (portion of neighborhood park, drainage basin, water tank, pump stations, etc.) and the land uses it would serve, will have no impact to increased demand for sanitary sewer service over what was assumed in the MEIR because Engineering and Transportation Department, Capital Facilities Planning Division has determined that the existing nearby Usick trunk line has available capacity to serve the development proposed by the Galas Brothers subdivision. Therefore, project development would result in a determination by the wastewater treatment provider which serves or may serve the project (City of Modesto) that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.

b) The facilities to be constructed (portion of neighborhood park, drainage basin, water tank, pump stations, etc.) and the development which Fairview Village CFD No. 2003-1 would serve would not result in exceedence of the RWQCB standards because sufficient capacity exists in the City’s wastewater system to collect and process the projected wastewater demand. The facilities, and the land uses to be served with development of the Galas Brothers subdivision facilities were analyzed as part of the assumed buildout of the Fairview Village CPD in the MEIR. Therefore, the Galas Brothers subdivision would not generate increased demand for sanitary sewer services over what was assumed in the Master EIR. Thus, there would be no impact to wastewater treatment requirements of the applicable Regional Water Quality Control Board.
c) Because the facilities (portion of neighborhood park, drainage basin, water tank, pump stations, pipelines, etc.) and the land uses which it would serve in the Fairview Village CFD No. 2003-1 have already been studied in the MEIR, the Master EIR assumed 5.1 dwelling units/acre and the Galas Subdivision is 4.3 dwelling units/acre, there would be no increased demand for sanitary sewer service above that analyzed by the MEIR. The Wastewater Treatment Division of the Operations and Maintenance Department has indicated there is available treatment plant capacity for the Galas Subdivision. In addition, there is a current project in the proposal for the design services stage that will assist in retaining existing disposal capacity under adverse seasonal discharge conditions. Therefore, the project would result in no impact to a requirement for or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effect.

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<tbody>
<tr>
<td>VII. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT – Compared to the Master EIR certified for the Modesto Urban Area General Plan, and the Focused EIR for the adopted Specific Plan will the project result in increased impacts to:</td>
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<tr>
<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
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<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
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<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filing, hydrological interruption, or other means?</td>
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<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
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<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
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f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

VII. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

The Existing Conditions, Impact Analysis, and Mitigation Measures listed in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR (pages V-7-1 through V-7-29) are still valid for the reasons discussed below.

Discussion:

a) The Galas Brothers Vesting Tentative Subdivision map, covered by the Fairview Village CFD No. 2003-1, is outside of the potential resource study area depicted on the Riparian Corridor diagram Figure V-7-la of the Master EIR. The 1995 Focused EIR analysis (page 64) reviewed the project site, MEIR mitigation measures, and the Special Status Species Potentially Occurring on the Site and indicated that:

"...habitat found on the project site has a low potential to provide habitat for resident or transient "special status" animals. Information to date does not indicate the potential for special-status species to occur on the site."

The 1995 correspondence from CADFG indicates no special status species would be located on-site.

However, the Focused EIR relies on implementation of the Master EIR mitigation measures to reduce impacts to loss of Sensitive Wildlife and Plant Habitat. The Master EIR (page V-7-19) and Focused EIR (page 62) require a site specific survey to determine if special species are present on the site and if there would be any effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan Master EIR (MEIR).

Therefore, with application of the Focused EIR Mitigation, the project would have less than significant effect with mitigation incorporated to a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

Accomplishing the following mitigation measure from the Master EIR prior to construction would reduce or avoid any identified effects:

MITIGATION MEASURE – WILDLIFE AND PLANT HABITAT:

Policy VII-E.3[a] For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure 7-1 in the Final Master EIR. (Riparian Corridor Diagram)

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by DFG and USFWS. The significant results of such surveys should be recorded onto the City's existing biological resources map for future planning purposes.
Policy VII-E.3[b] All habitat found to contain or potentially contain sensitive species shall be
avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not
function adequately as judged by a qualified biologist and/or that the proposed development layout
would be so constrained as to make the development financially infeasible; avoided habitat areas
shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the
species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be
necessary. The protected habitat shall contribute to the long-term conservation of the species and
ecosystems on which they depend.

Policy VII-E.3[c] Where formally listed species are determined present, consultation shall be carried
out with the DFG and/or USFWS in accordance with the California and/or federal Endangered
Species Acts. Where candidate or other special status category of species are involved, informal
consultation with these agencies is recommended. The recommendations of these agencies shall be
incorporated into the development plan, unless overriding considerations can be demonstrated.

b) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within
an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General
Plan Master EIR Figure V-7-la, construction of the proposed CFD facilities would not likely result in any
effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan
Master EIR (MEIR) and/or Focused EIR. Therefore the proposal would have no impact to a substantial
adverse effect on any riparian habitat or other sensitive natural community identified in local or regional
plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife
Service. In addition, a site-specific survey is required (see item a above) prior to construction.

c) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within
an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General
Plan Master EIR Figure V-7-la, construction of the proposed CFD facilities would not likely result in any
effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan
Master EIR (MEIR) and/or Focused EIR. Therefore, the proposal would have no impact to a substantial
adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act
(including, but not limited to, marsh vernal pool, coastal, etc.) through direct removal, filling, hydrological
interruption, or other means.

d) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within
an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General
Plan Master EIR Figure V-7-la, construction of the proposed CFD facilities would not likely result in any
effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan
Master EIR (MEIR) and/or Focused EIR. Therefore, the proposal would have no impact to Interfere
substantially with the movement of any native resident or migratory fish or wildlife species or with
established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery
sites? In addition, a site-specific survey is required (see item a above) prior to construction.

e) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within
an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General
Plan Master EIR Figure V-7-la, construction of the proposed CFD facilities would not likely result in any
effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan
Master EIR (MEIR) and/or Focused EIR Therefore the proposal would have no impact to Conflict with
any local policies or ordinances protecting biological resources, such as a tree preservation policy or
ordinance.

f) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 would be located within
an adopted Specific Plan area outside of the Tuolumne River Riparian corridor that is defined on General
Plan Master EIR Figure V-7-la, construction of the proposed CFD facilities would not likely result in any
effect on loss of sensitive wildlife and plant habitat that was not already analyzed by the General Plan
Master EIR (MEIR) and/or Focused EIR. Therefore the proposal would have no impact to Conflict with the provisions of an adopted Habitat Conversation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

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<tr>
<th>Issues</th>
<th>Less Than Significant Impact</th>
<th>Potentially Significant Impact With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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VIII. DISTURBANCE OF ARCHAEOLOGICAL OR HISTORICAL SITES – Compared to the Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts to:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? [ ] [ X ] [ ] [ ]

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? [ ] [ X ] [ ] [ ]

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? [ ] [ X ] [ ] [ ]

d) Disturb any human remains, including those interred outside of formal cemeteries? [ ] [ X ] [ ] [ ]

VIII. DISTURBANCE OF ARCHAEOLOGICAL OR HISTORICAL SITES

The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) remain valid for the reasons listed below.

Discussion:

a) Because the proposed facilities to be financed by the Fairview Village CFD No. 2003-1 are located within a "potential archaeological resource study area" - defined on Figure V-8-2 of the adopted Master EIR, the proposed amendment could potentially result in an effect on loss of an archaeological or historic resource that was not already analyzed by the General Plan Master EIR (MEIR). Therefore the proposal would have less than significant impact with mitigation incorporated to causing a substantial adverse change in the significance of a historical resource as defined in CEQA §15064.5.

The Focused EIR Environmental Analysis (page 67) did not require and was not based on a site-specific survey. It assumed that there was a low probability of encountering resources during excavation and construction: "a records search for the area within a one-mile radius of the site was conducted at the Central California Information Center, Department of Anthropology, California State University at Stanislaus (CCIC), the results indicate that there are no recorded archaeological resources within one-mile radius of the site. The CCIC recommended a field survey be conducted by a qualified archaeologist; however, there is no evidence provided for the existence of any "important archaeological resources" on the site. Thus a preliminary surface field reconnaissance was deemed unnecessary at this time."

Incorporate the following mitigation required by the Focused EIR, which addresses the discovery of a resource during construction, and potential effects will be reduced or avoided in that situation.
MITIGATION MEASURE - ARCHAEOLOGICAL AND HISTORIC RESOURCES:

In the event of discovery or recognition of any human remains during excavation or construction, Appendix K requires that there shall be not further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

The coroner of the County in which the remains are discovered has been informed and has determined that no investigation of the cause of death is required, and

If remains are of Native American origin,

a. The descendants from the deceased Native Americans have made a recommendation to the landowners or the person responsible for the excavation work, for means of retreating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or

b. The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.

Further, where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

1. The Native American Heritage Commission is unable to identify a descendant;
2. The descendant identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

If the human remains are discovered before the City has finished the CEQA process, the City shall work with the Native American Heritage Commission and the applicant to develop an agreement for treating or disposing, with appropriate dignity, of the human remains and any associated grave goods. Action implementing such an agreement is expect from:

1. The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (health and Safety Code Section 7050.5).
2. The requirements of CEQA and the Coastal Act.

b) Because the proposed facilities to be financed by the Fairview Village CFD No. 2003-1 and the land uses that it would serve are located inside of a “potential archaeological resource study area” – (defined on Figure V-8-2 of the MEIR) of the adopted General Plan Master EIR, the proposed project could potentially result in an effect on causing a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 that was not already analyzed by the General Plan Master EIR (MEIR). Therefore the proposal would have a less than significant impact with mitigation incorporated (per Item “a” above)to causing a substantial adverse change in the significance of an archaeological resource pursuant to CEQA §15064.5.
c) Because the proposed facilities to be constructed by and the land uses to be served by Fairview Village CFD No. 2003-1 are inside of a “potential archaeological resource study area” - defined on Figure V-8-2 of the General Plan MEIR, and because mitigation is being incorporated into the project, construction of the proposed CFD facilities would have a less than significant impact with mitigation incorporated (per Item “a” above) to directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.

d) Because the proposed Fairview Village CFD No. 2003-1 facilities would be located within a “potential archaeological resource study area”, defined on Figure V-8-2 of the General Plan MEIR, the proposed CFD could potentially result in unearthing archaeological resources that was not already identified by the General Plan Master EIR (MEIR). However, since appropriate mitigation is being incorporated into the project from the Focused EIR, the proposal would have a less than significant impact with mitigation incorporated (per Item “a” above) to disturb any human remains, including those interred outside of formal cemeteries.

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<th>Issues</th>
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<th>With Mitigation Incorporated</th>
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<th>No Impact</th>
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<tr>
<td>IX. FLOODING AND WATER QUALITY – Compared to the Master EIR certified for the Modesto Urban Area General Plan, will the project result in increased impacts to:</td>
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<tr>
<td>a) Violate any water quality standards or waste discharge requirements.</td>
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<td>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
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<td>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on – or off-site?</td>
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<tr>
<td>d) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
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<td>e) Otherwise, substantially degrade water quality?</td>
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<tr>
<td>f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
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Mitigated Negative Declaration
Fairview Village CFD 2003-1
December 2003
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

   [ ]   [ ]   [ ]   [ X ]

h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

   [ ]   [ ]   [ ]   [ X ]

i) Inundation by seiche, tsunami, or mudflow?

   [ ]   [ ]   [ ]   [ X ]

IX. FLOODING AND WATER QUALITY

Although the proposed project could have a significant effect on water quality (item a and e), there will not be a significant effect in this case because the mitigation measures described below will be added to the project. Therefore with the preparation of a Mitigated Negative Declaration pursuant to CEQA section 21157.5 that incorporates these Mitigation Measures into the project, the Existing Conditions, Impacts Analysis and Mitigation Measures contained in the Master EIR for Drainage, Flooding and Water Quality (pages IV-9-1 through IV-9-23) remain valid for the reasons discussed below.

Discussion:

a) The proposed Fairview Village CFD No. 2003-1 facilities would have a less than significant impact with mitigation incorporated to violation of any water quality standards (with treatment) or waste discharge requirements. Potential water quality impacts exist in the area, as known by the City. Initial test borings within the project area have indicated elevated levels of contaminants. Specifically, these elevated levels of contaminants that exceed the California Water Code Title 22 drinking water standards, include nitrates, and uranium, silvex and 2,4-DB nitrates, uranium and manganese.

The Focused EIR relies on the Master EIR for water quality analysis. The Master EIR analysis (page V-10-3) states: “The Modesto urban area has some groundwater areas that experience elevated levels of salinity, hardness, nitrates, and naturally occurring uranium”. However, the MEIR analysis did not specifically determine where these occurrences would be, nor does it contain specific mitigation measures to be applied for this particular impact.

The City’s Engineering and Transportation Department, Capital Facilities Planning Division, has determined that based on a test hole the developer recently drilled within the Galas property the background concentrations of several constituents exceed Safe Drinking Water Act Maximum Contaminants Levels and will require various forms of treatment to ensure safe drinking water supply for the project.

The following impact analysis and mitigation was provided by the City’s Engineering and Transportation Department, Capital Planning Division, in collaboration with the City’s Operations and Maintenance Department, Water Division:

The test reports were prepared by the following firms submitted by Del Valle Homes to the City and on file with the Engineering and Transportation Department, Capital Planning Division:

1) Micro Analytical Laboratories, Inc. dated March 11, 2003, Micro Log In No. 44024, 44165, 43961 & 44077

2) North Coast Laboratories, Ltd., Lab Order Nos. 0303145, 0303275, 0303054 dated March 24, 2003; lab Order No. 0303276 dated April 1, 2003
3) JL Analytical Services, Inc. dated April 8, 2003 Lab No. 0303-00418; Lab. No. 0303-00140; 0303-00733; 0303-00222
4) Truesdail Laboratories, Inc., dated March 28, 2003, Laboratory No. 915267

The above subject reports indicated, among other things, the following:

**IMPACT: WATER QUALITY 1**

Water Quality Test Results for Nitrate:

The four samples taken from the test well, at different strata levels below grade, indicated the following nitrate concentrations:

- 84 mg/L (128 ft. - 183 ft. below grade)
- 28 mg/L (210 ft. - 267 ft. below grade)
- 58 mg/L (315 ft. - 372 ft. below grade)
- 44 mg/L (399 ft. - 456 ft. below grade)

The Maximum Contaminant Level (MCL) for nitrate is 45 mg/L. Nitrate detection is associated with runoff from fertilizer use, leaching from septic tanks or sewer pipes, and erosion of natural deposits.

**MITIGATION MEASURE – WATER QUALITY 1:**


Each of these various methods of treatment have been shown to reduce nitrate in water to acceptable levels. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

**IMPACT – WATER QUALITY 2**

Water Quality Test Results for Gross Alpha (Indicator for Uranium):

The four samples taken from the test well, at different strata levels below grade, indicated the following gross alpha concentrations:

- 19.5 pCi/L (128 ft. - 183 ft. below grade)
- 21.8 pCi/L (210 ft. - 267 ft. below grade)
- 21.9 pCi/L (315 ft. - 372 ft. below grade)
- 27.6 pCi/L (399 ft. - 456 ft. below grade)

The Maximum Contaminant Level (MCL) for gross alpha is 15 pCi/L. Gross Alpha occurs in some drinking water sources and is associated with erosion of natural deposits.

**MITIGATION MEASURE – WATER QUALITY 2**

Potential treatment measures include: (1) Ion Exchange and (2) Blending with water of lower gross alpha levels – or the functional equivalent.

Either or both of these methods of treatment will be applied to reduce gross alpha in water to levels below that of the MCL.
IMPACT – WATER QUALITY 3

Water Quality Test Results for Arsenic:
The four samples taken from the test well, at different strata levels below grade, indicated the following arsenic concentrations:
- <3 ug/L (128 ft. – 183 ft. below grade)
- 6 ug/L (210 ft. – 267 ft. below grade)
- <3 ug/L (315 ft. – 372 ft. below grade)
- 6 ug/L (399 ft. – 456 ft. below grade)

The Maximum Contaminant Level (MCL) for Arsenic is currently 50 ug/L. The USEPA has set a future MCL for Arsenic at 10 ug/L. The State of California is currently considering adopting a more stringent standard for Arsenic which may be as low as 4 ug/L.

MITIGATION MEASURE – WATER QUALITY 3


Each of these various methods of treatment have been shown to reduce arsenic in water to levels below that of the MCL and new technologies for Arsenic treatment are still emerging. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

IMPACT – WATER QUALITY 4

Water Quality Test Results for Silvex and 2,4-DB
The four samples taken from the test well, at different strata levels below grade, indicated the following Silvex and 2,4-DB concentrations:

<table>
<thead>
<tr>
<th>Silvex</th>
<th>2,4-DB</th>
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<tbody>
<tr>
<td>ND</td>
<td>ND</td>
</tr>
<tr>
<td>ND</td>
<td>ND</td>
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<tr>
<td>1.0 ug/L</td>
<td>91 ug/L</td>
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The Maximum Contaminant Level (MCL) for Silvex is 1.0 ug/L. The maximum contaminant level for 2,4-DB is 10 ug/L.

MITIGATION MEASURE – WATER QUALITY 4

Potential treatment measures include: (1) Coagulation, Flocculation and Filtration, (2) Granular Activated Carbon Adsorption, (3) Powdered activated carbon adsorption.

Each of these various methods of treatment have been shown to reduce organic compounds in water to levels below that of the MCL. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.
IMPACT – WATER QUALITY 5

Water Quality Test Results for Manganese
The four samples taken from the test well at different strata levels below grade, indicated the following Manganese concentrations:

Manganese
0.03 mg/L (128 ft. – 183 ft. below grade)
0.38 mg/L (210 ft. – 267 ft. below grade)
0.05 mg/L (315 ft. – 372 ft. below grade)
0.19 mg/L (399 ft. – 456 ft. below grade)

The Secondary Standard for Manganese is 0.05 mg/L. There are no known health effects associated with the ingestion of Manganese, however staining of plumbing fixtures may occur at concentrations above the secondary standard.

MITIGATION MEASURE – WATER QUALITY 5
Potential treatment measures include: (1). Oxidation and filtration., (2) Reverse Osmosis (3) Greensand Filtration.
Each of these various methods of treatment have been shown to reduce Manganese in water to levels below that of the secondary standard. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

b) Because the proposed Fairview Village CFD No. 2003-1 facilities and the land uses it would serve are consistent with the adopted Specific Plan, the water supply requirements would be the same as analyzed in the Master EIR, there would be no impact to Substantial depletion of groundwater supplies or substantial interference with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

c) Because the Fairview Village CFD No. 2003-1, its facilities and the land uses it would serve are consistent with planned development in the Fairview Village CPD and adopted Specific Plan Area of the General Plan and the City requires new development to be served by a positive storm drainage system as described by measures SD-9 through SD-14, page V-9-5, Master EIR, there will be no impact to substantially altering the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on – or off-site.

d) The Fairview Village CFD No. 2003-1, its facilities and the land uses it would serve, are consistent with the adopted Specific Plan, or conditions of development with the exception of the need to construct a new gravity storm drain line to provide the necessary capacity to empty the basin. The construction of this new gravity storm drain line in existing public right-of-way would not contribute substantial additional sources of polluted runoff. Therefore, the project would have a less than significant impact with mitigation incorporated. Specifically, the storm drainage basin will incorporate current City adopted stormwater quality control measures as mitigation to polluted runoff.

MITIGATION MEASURE – WATER QUALITY 6
Because the Fairview Village CFD No. 2003-1 the land uses it serves and the facilities it would construct, specifically contaminant levels in the drinking water wells, were not considered in the water quality analysis of the MEIR, there is the potential for effects on water quality beyond that analyzed. However, the proposed Fairview Village CFD No. 2003-1 would have a less than significant impact with mitigation incorporated to otherwise, substantially degrading water quality. Specifically, the contaminant levels from drinking water wells, if not properly mitigated, could impact water quality. Mitigation is provided, (see also item a, above) that would ensure a Less than Significant impact:

Because the Fairview Village CFD No. 2003-1, the facilities it would construct, and the residential land uses it would serve, are outside of any flood potential area as described on Master EIR Figure V-10-1b, there will be no impact to placing housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map (see Exhibit “G”, 100-Year Floodway Map).

Because the Fairview Village CFD No. 2003-1, its facilities that would be built and land uses it would serve, will be in a planned residential area of the Planned Urbanizing Area of the adopted General Plan, and are outside of any flood potential areas as described on Master EIR Figure V-10-1b, there will be no impact to placing within a 100-year flood hazard area structures which would impede or redirect flood flows (see Exhibit “G”, 100-Year Floodway Map).

Since the proposed Fairview Village CFD No. 2003-1, the facilities it would construct and the land uses it would serve are in an adopted Specific Plan residential area of the Urban Area General Plan, and are outside of any flood potential areas as described on Master EIR Figure V-10-1b, there will be no impact to exposing people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.

Since the proposed Fairview Village CFD No. 2003-1, the facilities it would construct, and the land uses it would serve, would be located within an adopted Specific Plan area in planned residential areas of the adopted General Plan, there will be no impact to inundation by seiche, tsunami, or mudflow.

### X. INCREASED DEMAND FOR STORM DRAINAGE

Compared to the Master EIR certified for the Modesto Urban Area General Plan and the certified Focused EIR, would the project result in increased impacts to:

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<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact</th>
<th>With Mitigation Incorporated</th>
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<td>a)</td>
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See IX(d)
X. INCREASED DEMAND FOR STORM DRAINAGE

The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-10-1 through V-10-8) remain valid for the reasons discussed below.

Discussion:

a) Because the proposed Fairview Village CFD No. 2003-1, would finance the construction of a portion of the storm drainage basin to serve the Fairview Village Specific Plan area designed to supplement planned regional drainage basins, thus providing increased storage capacity for times of high storm events, and the City requires all new development to be served by a positive storm drainage system as described by measures SD-9 through SD-14, page v-9-5, Master EIR, and the proposal would have a less-than-significant impact to any requirements for or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effect. The facilities to be financed by the CFD would be essentially the same as described in the adopted Specific Plan with the exception that the discharge line draining to the Tuolumne River would be increased from 18 inches to 30 inches. In addition, the facility would be constructed and operated in accordance with the City’s Guidance Manual for New Development, Stormwater Quality Control Measures.

XI. INCREASED DEMAND FOR PARKS AND OPEN SPACE

- Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

[ ] [ ] [ ] [ ] [ X ]

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse effect on the environment?

[ ] [ ] [ ] [ ] [ X ]

XI. INCREASED DEMAND FOR PARKS AND OPEN SPACE

The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Parks and Open Space (pages V-11-1 through V-11-11) remain valid for the reasons discussed below.
Discussion:

a) Because the proposed Fairview Village CFD No. 2003-1 provides for an effective increase in the amount of available neighborhood park and open space land to serve the adopted Fairview Village Specific Plan’s land use with the Galas Subdivision contributing to that park land, bike path and parkways, the project would have no impact to increasing the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

b) Because the proposed Fairview Village CFD No. 2003-1, the facilities it would construct, includes financing the construction of a portion of the central neighborhood park for the specific plan area as well as bike path and parkways, in accordance with the City’s Parks, Recreation and Neighborhoods Department criteria, there will be no impact to the requirement for the construction or expansion of recreational facilities which might have an adverse effect on the environment.

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XII. INCREASED DEMAND FOR SCHOOLS – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for school services:

XII. INCREASED DEMAND FOR SCHOOLS

The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Schools (pages IV-12-1 through IV-12-11) remain valid for reasons discussed below.

Discussion:

a) Because the proposed Fairview Village CFD No. 2003-1 provides financing for the construction of infrastructure (portion of neighborhood park, water tank, pump station, water well, storm drainage basin, various pipes and other related facilities, etc.) to serve residential development, not the residential development itself, and the infrastructure has no associated student generation, there would be no impact to substantial adverse physical impacts associated with the provision of new or physically altered school facilities, need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives for school services. The residential development served by the facilities would pay school district facilities fees to mitigate impacts on demand for schools pursuant to Government Code Section 53080 (page 73, Focused EIR).
XIII. INCREASED DEMAND FOR POLICE SERVICES – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered police service facilities, need for new or physically altered police facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services.

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The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are still valid for the reasons discussed below.

Discussion:

a) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 (water wells, tanks, storm drain basin, portion of a neighborhood park etc.) would be designed and constructed according to City standards, there would be no unusual police demand created by their construction and operation. The residential development served by the CFD would pay City Capital Facilities Fees, which include a component for Police capital infrastructure to maintain appropriated levels of service as described by measures PS-3 through PS-8, pages V-13-3, V-13-14, Master EIR. Therefore, the project would result in no impact to substantial adverse physical impacts associated with the provision of new or physically altered police service facilities, the need for new or physically altered police facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services.

XIV. INCREASED DEMAND FOR FIRE SERVICES – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services.

|        | [ ]                           | [ ]                                           | [ ]                          | [ X ]     |
XIV. INCREASED DEMAND FOR FIRE SERVICES

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Increased Demand for Fire Services (pages V-14-1 through V-14-9) remain valid for the reasons discussed below.

Discussion:

a) Because the standard nature of the public facilities to be constructed and financed by Fairview Village CFD NO. 2003-1, (parks, water wells, tanks and storm drainage basins consistent with the adopted Specific Plan) they would be designed and constructed according to City standards including review by the Fire Marshall regarding Fire Code conformance. In addition, the residential development served by the CFD would pay the City Capital Facilities Fees, which would include a component for fire capital facilities to maintain appropriate levels of service as described by mitigation measures FS-6 through FS-18, pages V-14-3 thru V-14-15, Master EIR. Therefore, the project would result in No Impact to substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services.

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<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact with Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>XV. GENERATION OF SOLID WASTE - Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:</td>
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<tr>
<td>a) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
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<tr>
<td>b) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?</td>
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</table>

XV. GENERATION OF SOLID WASTE

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Generation of Solid Waste (pages V-15-1 through V-15-10) remain valid for the reasons discussed below.

Discussion:

a) Because the Fairview Village CFD No. 2003-1 would finance the construction of standard neighborhood public facilities (water wells, pump stations, water tanks, drainage basins, parks, etc.) and they would be consistent with the analysis in adopted Specific Plan and, there would be no significant increase in generation of solid waste and therefore no impact to compliance with federal, state, and local statutes and regulations related to solid waste. (See also Section XVI Hazardous Materials, item a).
b) Because construction of facilities funded by Fairview Village CFD No. 2003-1 would be consistent with the adopted Specific Plan and Master EIR, there would be no significant change in the size and nature of the planned facilities (parks and drainage basins, etc.) The Master EIR analysis indicates there currently exists adequate capacity in existing Stanislaus County landfill sites to accommodate waste generation by development of the Modesto General Plan to the year 2025. It also indicates a proposed expansion of the landfill will be available beyond that date. Therefore, there would be no impact to increase in demand for service by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs. (pages V-15-7 and V-15-8)

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<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
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<tbody>
<tr>
<td>XVI. GENERATION OF HAZARDOUS MATERIALS</td>
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<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
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<td>[ ]</td>
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<tr>
<td>b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</td>
<td>[ ]</td>
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<tr>
<td>c) Emit hazardous emissions or handle hazardous with acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>[ ]</td>
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<tr>
<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td>[ ]</td>
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<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>[ ]</td>
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<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
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<td>[ X ]</td>
</tr>
<tr>
<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
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<td>[ X ]</td>
</tr>
</tbody>
</table>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

XVI. GENERATION OF HAZARDOUS MATERIALS

The proposed project could have a less than significant effect on public exposure to hazardous materials or hazardous materials within ¼ mile of a proposed school (items a and c). Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures contained in the Master EIR for Generation of Hazardous Materials (pages V-16-1 through V-16-15) remain valid for the reasons discussed below.

Discussion:

a) The following impact analysis and mitigation is provided by the City's Operations and Maintenance Department Water Division staff in collaboration with the Engineering and Transportation Department, Capital Facilities Planning Division: The proposed Fairview Village CFD No. 2003-1 would construct some facilities that would use or generate hazardous materials that would be a very low level of hazard. The water well-head treatment facilities could include hypochlorination equipment that require the storage and operation of sodium hypochlorite (bleach) tanks. These low pressure tanks are used throughout the Modesto urban area and are very safe and pose no danger to the surrounding residential area or schools. The water well-head treatment of Ion Exchange would include the accumulation of various by-products as a result of removing them from the groundwater such as Arsenic, Uranium and Nitrate and other dissolved solids. The only waste generated by the ion exchange treatment process requiring special handling and disposal is the spent brine. Waste management companies will be used to properly and legally manage the brine transportation and disposal. The brine is expected to be characterized as "Non-Hazardous Liquid Waste" and will be managed according to DOT regulations.

The wellhead treatment of reverse osmosis, electrodialysis and electrodialysis reversal would result in a water waste stream of concentrations of Arsenic, Uranium, Nitrate and Total Dissolved Solids at concentrations higher than those found in the well water. The reject stream from this process would be deposited into the sanitary sewer and treated at the waste water treatment plant. The wellhead treatment of the various adsorption media would result in an accumulation of Arsenic and certain other inorganics on the media as a result of removing them from the well water. The wellhead treatment using activated carbon would include the accumulation of organic compounds as a result of removing them from the groundwater, such as Silvex and 2,4-DB. The wellhead treatment for manganese is oxidation with sodium hypochlorite followed by settling and/or filtration using anthracite coal or greensand filters. Filter backwash water containing precipitated manganese may be fed into the sanitary sewer. This treatment will required no additional chemicals because sodium hypochlorite is already being used as a disinfectant. Removal of manganese sludge from the storage tanks will be performed periodically following AWWA standards for water storage tanks AWWA C652-02 and AWWA D101-53 (R86 and performed by inspectors certified by National Association of Corrosion Engineers. Activated carbon will be backwashed and the backwash water deposited into the sanitary sewer. Spent carbon will be replaced with new carbon and transported to the manufacturer for regeneration. However, these treatment facilities are in operation throughout many urban areas throughout State of California and there are routine operational procedure that assure the safety of the surrounding land uses, including residential neighborhoods and schools. Whenever possible, the chemicals used will be chosen with consideration to the safety of the public and will be the least toxic chemicals that are available to perform the necessary treatment. All chemical used for wellhead treatment will be delivered by licensed drivers, fully trained in the hazards of the materials they are transporting. All chemicals and treatment materials that are stored at the treatment site will be self contained and stored within double containment facilities when appropriate to do so. All handlers of spent materials will be licensed and fully trained in the proper handling,
transportation, and disposal of these materials. Deliveries, transportation and disposal of all materials will be done in accordance with all applicable Federal, State, County and Local Ordinances. City Operations and Maintenance Department staff also indicated that with the incorporation of the procedures cited below as Mitigation, there would be a Less-Than-Significant Impact with Mitigation Incorporated on creation of a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

MITIGATION MEASURE – HAZARDOUS MATERIALS

1. All chemicals storage tanks will have a secondary containment facility capable of holding the entire volume of the material stored in the tank in the event of a rupture to prevent accidental release.
2. All brine tanks will have a secondary containment facility capable of storing all of the brine in the event of tank failure.
3. All chemical storage tanks will be surrounded by a locked fence to prevent vandalism.
4. All ion exchange resin tanks will be housed in locked mobile containers capable of containing leaks and preventing damage due to climate or vandalism.
5. The brine delivery and disposal will be accomplished using locked boxes equipped with chemical cam lock off loading stations so trucks do not need to enter the well treatment area to load and unload materials.
6. The wellhead treatment site will be fully enclosed by a wall or fence and will remain locked at all times. The facilities will be inspected regularly.
7. Signs will be posted warning emergency responders of the hazards associated with high voltage electricity and NIOSH warnings regarding the chemicals which may be stored on site.
8. The removal of manganese sludge will be performed by certified divers according to AWWA standards.

b) Because the proposed Fairview Village CFD No. 2003-1, the facilities that it would construct, specifically, the water well-head treatment facilities, the operation and maintenance of these facilities (see above discussion in item (a) regarding potential hazardous materials) would be in accordance with the procedures of the City’s Operations and Maintenance Department, there would be no foreseeable hazardous materials accident conditions. Therefore, there would be no impact to creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Should an accidental spill or hazardous materials incident occur, the appropriate division of the County Environmental Resources Department and City Departments would respond as with any other location within the Modesto Urban Area.

c) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1, include water well-head treatment facilities, the operation and maintenance of these facilities (see above discussion in item a) regarding potential hazardous materials) would be in accordance with the procedures of the City’s Operations and Maintenance Department, there would be no foreseeable hazardous materials accident conditions. Therefore, there might be a potential for the exposure to the public to toxic materials that are used in well-head treatment facilities such as sodium hypochlorite (bleach) or by products of other treatment processes. However, City Operations and Maintenance staff indicate that with the incorporation of the appropriate procedural program of Mitigation cited below there would be a Less Than Significant Impact with Mitigation Incorporated Impact to emission of or handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. Incorporation of the procedures mitigation cited below would ensure a Less than Significant impact:
MITIGATION MEASURE – HAZARDOUS MATERIALS

The mitigation provided by item a) above will reduce impacts for item c) to Less Than Significant.

d) The proposed Fairview Village CFD No. 2003-1 and the facilities it would construct would be located within future residential areas of the General Plan as designated in the adopted Fairview Village Specific Plan, and would not be located within any known Hazardous Materials Zones as described on the CA Department of Toxic Substance Controls’ Hazardous Waste and Substances Site List (Cortese List), list dated 10/6/03 for Stanislaus County reviewed by City Staff. Therefore, there would be no impact to being located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, the project would not create a significant hazard to the public or the environment.

e) Because the proposed Fairview Village CFD facilities and the land uses it serves, are in excess of 2 miles west of the Modesto City/County airport, there would be no impact to a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would not result in a safety hazard for people residing or working in the project area.

f) Because the proposed facilities to be financed and constructed by the Fairview Village CFD No. 2003-1 and the development it would serve would be located within a planned City subdivision that is part of an adopted Specific Plan area and there are no private airstrips within or adjacent to the Modesto General Plan Area, there would be no impact to a project within the vicinity of a private airstrip, or a safety hazard for people residing or working in the project area.

g) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct would be located within a planned City Neighborhood within an adopted Specific Plan with a circulation system designed per City Engineering and Transportation Department standards, there would be no impact to Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The Specific Plan development would improve Carpenter Road which is an Emergency Evacuation Route per Figure VI-3 of the General Plan.

h) Because the facilities to be constructed by the Fairview Village CFD No. 2003-1 will be located within an approved Specific Plan within a Comprehensive Planning District of the Modesto General Plan, which is currently irrigated agricultural, orchard and row crop lands, there would be no impact to exposing people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

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<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact With Mitigation Incorporated</th>
<th>Less Than Significant Impact No Impact</th>
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<tbody>
<tr>
<td>XVII. LANDSLIDES AND SEISMIC ACTIVITY</td>
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</table>

Compared to the Master EIR certified for the Modesto Urban Area General Plan will the project result in increased impacts to:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

Mitigated Negative Declaration
Fairview Village CFD 2003-1
December 2003

EA/C&ED No. 2003-86
b) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

[ ] [ ] [ ] [ ] [ X ]

c) Strong seismic ground shaking?

[ ] [ ] [ ] [ ] [ X ]

d) Seismic-related ground failure, including liquefaction?

[ ] [ ] [ ] [ ] [ X ]

e) Landslides?

[ ] [ ] [ ] [ ] [ X ]

f) Result in substantial soil erosion or the loss of topsoil?

[ ] [ ] [ ] [ ] [ X ]

g) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

[ ] [ ] [ ] [ ] [ X ]

h) Be located on expansive soil, as defined in Table 18-1B of the Uniform Building Code (1994), creating substantial risks to life or property?

[ ] [ ] [ ] [ ] [ X ]

i) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

[ ] [ ] [ ] [ ] [ X ]

XVII LANDSLIDES AND SEISMIC ACTIVITY

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Landslides and Seismic Activity (pages V-17-1 through V-17-11) remain valid for the reasons discussed below.

Discussion:

a) Because the proposed Fairview Village CFD No. 2003-1 for the Fairview Village Specific Plan Area, and the Galas Brothers Subdivision are located in a residential Comprehensive Planning District of the General Plan, and, per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death.

b) Because the proposed Fairview Village CFD No. 2003-1 for the Fairview Village Specific Plan Area, and the Galas Brothers Subdivision are located within a City Comprehensive Planning District of the General Plan, and per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.
c) Because the proposed Fairview Village CFD No. 2003-1 for the Fairview Village Specific Plan Area and the Galas Brothers Subdivision would be located with planned Comprehensive Planning District residential areas of the General Plan, and per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.

d) Because the proposed Fairview Village CFD No. 2003-1 located within planned City Comprehensive Planning District of the General Plan, and per Figure 17-1 MEIR, the nearest fault is 15 miles west of the Modesto General Plan Area, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving Seismic-related ground failure, including liquefaction.

e) Because the proposed Fairview Village CFD NO. 2003-1 the facilities it would construct, and the land uses it would serve, are located with planned City Neighborhood parks in future residential areas of the General Plan, Fairview Village Comprehensive Planning District, there is no impact to exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving result in landslides.

f) Because the proposed Fairview Village CFD NO. 2003-1, the facilities it would construct and the land uses it would serve are located within planned City Neighborhood parks in future residential areas of the General Plan where development must be pursuant to the City’s Standards and Uniform Building Code, there is no impact to exposure of people or structures to potential substantial adverse effects resulting in substantial soil erosion or the loss of topsoil.

g) Because the Fairview Village CFD NO. 2003-1, located within adopted Specific Plan area future residential areas of the General Plan constructed to City standards, and Uniform Building Code which rates the suitability of soils for development, there is no impact to being located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

h) Because the proposed Fairview Village CFD NO. 2003-1 facilities to serve future residential area of the General Plan constructed to City standards and the Uniform Building Code, there is no impact to being located on expansive soil, as defined in Table 18-1B of the Uniform Building Code (1994), creating substantial risks to life or property.

i) The proposed Fairview Village CFD No. 2003-1 facilities would be located within a planned City future residential area of the General Plan and constructed to City standards, there is no impact to soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water, because the Modesto Municipal Code requires connection to the City’s Sanitary Sewer System and does not permit construction of alternative waste water disposal system.
XVIII. ENERGY – Compared to the Master EIR certified for the Modesto Urban Area General Plan would the project result in increased impacts to:

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<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
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<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>a) Use of fuel, water, or energy in a wasteful manner.</td>
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</tr>
<tr>
<td>b) Encourage activities which result in the use of large amounts of fuel, water, or energy.</td>
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XVIII. ENERGY

The Existing Conditions, Impacts Analysis and Mitigation Measures contained in the MEIR for Landslides and Seismic Activity (pages V-17-1 through V-17-11) remain valid for the reasons discussed below.

Discussion:

a) Because service providers indicated ability to serve the area covered by the MEIR, including the Fairview Village CFD No. 2003-1, and because of the low energy requirements of the land uses associated with the project (storm drainage basin, water tanks, pumps, pipes, well-head treatment, and parks facilities) there would be no impact to use of fuel, water, or energy in a wasteful manner.

b) Because energy service providers indicated ability to serve the area covered by the MEIR, including Fairview Village CFD No. 2003-1 and because of the low energy requirements of the land uses associated with the project (storm drainage basin, water tanks, pumps, pipes, well-head treatment, and parks facilities) there would be no impact to Encourage activities which result in the use of large amounts of fuel, water, or energy.
XIX. AESTHETICS—Would the Project:

a) Have a substantial adverse effect on a scenic vista?  
   - Less Than Significant Impact
   - Potential Mitigation
   - Significant Impact
   - Mitigated Negative Declaration
   - Fairview Village CFD 2003-1
   - December 2003

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?  
   - Less Than Significant Impact
   - Potential Mitigation
   - Significant Impact
   - Mitigated Negative Declaration
   - Fairview Village CFD 2003-1
   - December 2003

c) Substantially degrade the existing visual character or quality of the site and its surroundings?  
   - Less Than Significant Impact
   - Potential Mitigation
   - Significant Impact
   - Mitigated Negative Declaration
   - Fairview Village CFD 2003-1
   - December 2003

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?  
   - Less Than Significant Impact
   - Potential Mitigation
   - Significant Impact
   - Mitigated Negative Declaration
   - Fairview Village CFD 2003-1
   - December 2003

XIX. AESTHETICS

Discussion:

a) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct (water wells, parks, storm drainage basins, water tanks, parkways etc) for the Galas Brothers Subdivision would be landscaped and include a program of maintenance to prevent the degradation of the visual character of the facilities, and are located within an adopted Specific Plan that provides standards for residential development there would be a less than significant impact to a substantial adverse effect on scenic vista.

b) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision would be addressed by the policies and standards in the Fairview Village adopted Specific Plan, and there are no unique scenic resources because the property is essentially, irrigated commercial farm land, there is no impact to substantially damaging scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

c) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision, would be addressed by the policies and standards contained in the adopted Fairview Village Specific Plan, and the existing visual character of the site and its surroundings with is that of an irrigated commercial farm property, there would be no impact to substantially degrading the existing visual character or quality of the site and its surroundings.

d) Because the proposed Fairview Village CFD No. 2003-1 and the infrastructure it would construct are located within the adopted Fairview Village Specific Plan area, the City's standards and criteria for development would apply. Therefore City standards for design and development of lighting facilities would have no impact on creating a new source of substantial light or glare which would adversely affect day or nighttime views in the area.
XX. **LAND USE AND PLANNING** – Would the project:

<table>
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<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a) Physically divide an established community?</td>
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<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td>[ ]</td>
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<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
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**Discussion:**

a) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct (water wells, parks, storm drainage basins, water tanks, parkways etc) for the Galas Brothers Subdivision are located within an adopted Specific Plan for the development of an existing approximately 82-acre irrigated commercial farm property, there would be a **no impact** to physically dividing an established community.

b) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision would be addressed by City of Modesto (lead agency) policies and standards in the Fairview Village adopted Specific Plan, there is **no impact** to conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

c) Because the proposed Fairview Village CFD No. 2003-1 and the facilities it would construct to serve the Galas Brothers Subdivision, would be addressed by the policies and standards contained in the adopted Fairview Village Specific Plan, and the site and its surroundings are an irrigated commercial farm property with no applicable conservation plan or agricultural preservation restrictions, there would be **no impact** to conflict with any applicable habitat conservation plan or natural community conservation plan.
XXI. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effect of other current projects, and the effects of probable future projects).

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Discussion:

a) As set forth in the MEIR and this Initial Study, this project does not have the potential to further degrade the quality of the environment. Although the project would be located within areas identified in the MEIR as potentially biologically, archaeologically, historically or otherwise significant area, and although the Initial Study has identified new potential impact not analyzed in the Master EIR or Focused EIR to water supplies, water quality, and hazardous materials with the application of appropriate available mitigation measures, these potential impacts can be reduced to less than significant with mitigation incorporated (see Section XXII below for mitigation measures).

b) Because the project would provide a financing mechanism for the construction of the necessary facilities to meet General Plan standards for the planned development of Fairview Village Specific Plan area as well as specific facilities for an approved Vesting Tentative Subdivision it would reduce previously identified impacts. The project, (the infrastructure plus the development it would serve) has the potential to cause cumulative impacts to water supplies and water quality, however, with the incorporation of proposed mitigation it would have a less-than significant with Mitigation Incorporated which would be cumulatively considerable. The MEIR prepared on the General Plan specifically estimates development of the entire General Plan by the year 2025. This project is a small increment of that development. Since the adoption of the MEIR, there are no major projects proposed in the vicinity of this project which would further exacerbate impacts which have not already been reviewed (see Section XXII below for mitigation measures).
c) Finally, as set forth in both the MEIR and this Initial Study/Mitigated Negative Declaration, although the project has the potential to cause substantial adverse effects on human beings for Water Quality and Hazardous Materials, either directly or indirectly, with the addition of the mitigation measures proposed, the impacts would be reduced to less-than-significant with Mitigation Incorporated (see Section XXII below for mitigation measures).

XXII. RESULTS OF PUBLIC REVIEW

A Public Review document including the Initial Study and Findings, the Draft Mitigated Negative Declaration was prepared that provided CEQA review of the proposed Fairview Village CFD No. 2003-1, the draft document and supporting documents, was circulated for Public Review from October 13, 2003 to November 12, 2003. During this review period, letters of comment were received by the City, providing comments on the Draft Mitigated Negative Declaration. These letters are identified as follows:

<table>
<thead>
<tr>
<th>Letter</th>
<th>Agency</th>
<th>Date Received</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>Department of Health Services</td>
<td>November 14, 2003</td>
</tr>
<tr>
<td>B</td>
<td>Department of Health Services</td>
<td>November 24, 2003</td>
</tr>
<tr>
<td>C</td>
<td>Governor's Office of Planning &amp; Research</td>
<td>November 20, 2003</td>
</tr>
<tr>
<td>D</td>
<td>Governor's Office of Planning &amp; Research</td>
<td>November 14, 2003</td>
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<tr>
<td>E</td>
<td>Richard Jantz, Stanislaus County ERC</td>
<td>November 14, 2003</td>
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<tr>
<td>F</td>
<td>San Joaquin Valley Air Pollution Control District</td>
<td>November 17, 2003</td>
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<tr>
<td>G</td>
<td>Modesto City Schools</td>
<td>November 14, 2003</td>
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<tr>
<td>H</td>
<td>California State Department of Transportation</td>
<td>November 7, 2003</td>
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<tr>
<td>I</td>
<td>Stanislaus Council of Governments</td>
<td>November 5, 2003</td>
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<tr>
<td>J</td>
<td>Modesto Irrigation District</td>
<td>November 3, 2003</td>
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<td>K</td>
<td>Stanislaus LAFCO</td>
<td>October 21, 2003</td>
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City responses to each comment presented in each letter, as well as copies of those letters are presented in the following pages. None of the letters raised new environmental issues that had not been discussed and mitigation provided at the time the Draft Mitigated Negative Declaration was released for public review. No new avoidable significant effect was identified or mitigation measures added that would result in a substantial revision to the document. Pursuant to CEQA Section 15073.5 (c), language was added in response to comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects, which clarifies, amplifies or makes insignificant modifications to the negative declaration.

Based upon the substantial evidence presented in the Initial Study, and in recognition of the (11) letters of comment received on the Draft Mitigated Negative Declaration, the findings in the following Determinations section, Section XXII, can be made.
Patrick Kelly  
Principal Planner  
Community & Economic Development Department  
City of Modesto  
1010 Tenth St., Suite 3300  
Modesto, CA 95354

COMMENTS ON DRAFT MITIGATED NEGATIVE DECLARATION FOR THE FAIREVIEW VILLAGE CFD - SCH#2003102055

Thank you for the opportunity to review the Draft Mitigated Negative Declaration for the Fairview Community Facilities District No. 2003-01 prepared by the City of Modesto (City). The comments in this letter are limited to the water quality and quantity related issues in the report.

The project includes formation of a Community Facilities District to provide a financing mechanism for the Fairview Village Specific Plan Area and to fund the infrastructure and its maintenance for the 81.66 acre Galas Brothers Subdivision, a 383 lot residential subdivision that includes a portion of a neighborhood park, a storm drains system, a wastewater system, a water well site, wellhead treatment, distribution pipe lines, a water tank and booster pumps.

From the draft report, the Department notes that a drinking water well will be drilled to provide drinking water to the proposed subdivision, which is located in the southwest area of the City. The Department further notes that a test hole was drilled in the area to test the ground water quality at different strata levels below grade. The results of water quality analyses indicated that the well water exceeded the drinking water standard of 45 mg/L for nitrate, 15 pCi/L for gross alpha, and 0.05 mg/L for manganese. The draft report suggests that treatment would be provided to bring the proposed well in compliance with...
The Department notes that the proposed project is located in an area where the City already face water shortages especially during the high demand period of summer. As a result, consumer complaints regarding low pressure are common. Water quality is also a big concern. The City has taken number of wells out of service due to high uranium, nitrate, and organic chemical contamination. The City has not yet decided what to do with those contaminated wells, although they may either destroy them or use them with treatment. Drilling another new well, as mentioned in the draft report, with known contaminants does not seem to be the most reasonable approach when some existing wells in the area have already been taken offline due to similar problems.

Treatment of the new well for the removal of nitrate and uranium will be complicated and costly, as multiple treatment units may be needed for this purpose. It is also necessary to consider the cost associated with operation and maintenance of the treatment plant. In addition, disposing of any uranium waste generated during the treatment process may become another huge problem. Placing the uranium waste with the City’s wastewater is an option. However, it is the Department’s understanding that placing sewage effluent with radioactive waste in evaporation/percolation ponds is considered disposal of the radioactive waste to land, which is currently banned by the State. Therefore, since the City’s wastewater system holds wastewater in ponds for at least half, or more, of the months of the year, the City will need to include provisions to avoid the disposal of radioactive waste to land.

Note that the Department may not permit the use of the proposed new well with treatment, until the City can satisfactorily establish where and how the uranium waste will be discarded and that the disposal method does not violate any local, State, and/or Federal law.

It is noted here that the City drilled a well (No. 100 previously called No. 65) in south Modesto a while back to supplement the existing source capacity. The City was hoping that addition of this well to the water system would alleviate some of the water shortage concerns. However, the well has not been used due to elevated level of nitrate (>45 mg/L). The unavailability of this well adds to the Department’s concerns regarding the City’s inability to
maintain an operating pressure at all service connections of not less than 20 psig during the maximum demand period.

Therefore, the Department is opposed to allowing any further housing growth in the south Modesto area until the City has satisfactorily resolved the water quality and quantity issues for the existing and potential future consumers in Modesto, particularly the issue related to the disposal of waste generated by the proposed treatment process.

Note that in the interest of public health, it is the Department's policy that the best possible source should be used for drinking purposes. Therefore, the Department is hesitant to accept any new contaminated source with treatment if an uncontaminated source could be developed instead. As a result, it is recommended that the City proceed very carefully and look for areas with known good quality and quantity of water before drilling any wells in order to avoid any unnecessary potential risks associated with the treatment of contaminated well water.

Furthermore, the need to provide additional treatment to existing groundwater supplies is anticipated in the near future due to other pending regulations under development by the U.S. Environmental Protection Agency (EPA). Analyses of the economic impacts of the new regulations indicate that compliance with the new regulations will significantly increase the cost associated with the continued use of the contaminated groundwater supplies through treatment.

An alternative to drilling new wells would be the expansion of the use of treated surface water that currently delivers water of good quality to the City, which still significantly depends on poor quality ground water. This expansion will not only assure a continuous and reliable supply but also a higher quality of water all year long to the City. This would reduce the City's dependence on the local groundwater and would adequately address some of the concerns regarding the poor ground water quality and the potential for aquifer overdraft. Aquifer overdrafting has resulted in an increase in the concentration of uranium and other contaminants in some of the City's wells rendering them unusable.

Once again, it is the Department's position that the additional use of treated surface water would be the best
alternative to the local groundwater as a continuous and reliable supply of water of higher quality all year long to the consumers. This would also adequately address some of the concerns the consumers may have regarding the poor groundwater quality.

If you have questions concerning this letter, please contact Tahir Mansoor of this office at (209) 948-3879.

Joseph O. Spano
Joseph O. Spano, P.E.
District Engineer
Drinking Water Field Operations Branch
Stockton Office

Cc: Allen Lagarbo, City of Modesto
    State Clearinghouse, Sacramento

A:\1103 - Fairview Neg Dec Comments
Since commenting on the Fairview Village Draft Mitigated Negative Declaration for the Fairview Village CFD, the Department has developed a better understanding of the project and the purpose of the Mitigated Negative Declaration.

Most of the comments in the Department's November 12, 2003 letter are general comments relevant to the area of the City of Modesto south of the Tuolumne River and west of State Route 99. For more than a decade, the City has had problems with both the quality and the quantity of water available in that area for domestic use. The Department's comments in the letter of November 12, 2003, focus primarily on general problems that exist in a large quadrant of the City. While the Fairview Village development is in that sector of the City, it is not expected that this single development should bear the responsibility or provide the solutions to these more extensive problems.

In contrast, it is the view of the Department that the City of Modesto must develop a viable, long term plan that properly addresses the domestic water supply problems in southwest Modesto. While interim measures, such as those proposed for the Fairview Village development may deal with some of the problems on a short term basis, the Department is concerned about the long term validity of the proposed measures.

The domestic water supply solution proposed by Del Valle Homes for the Fairview Village development does have some short term merit. The proposed treatment of the ground water available in southwest Modesto should provide water that meets domestic water quality standards. In addition, the 20 inch diameter transmission main line to deliver better quality water from north Modesto to the area south of the Tuolumne River does provide a redundant supply which adds reliability that will be necessary when the new well proposed for Fairview Village and its treatment systems are out of service for any reason.
Assuming the residuals from the treatment process can be disposed properly and legally, the Fairview Village treatment proposal may demonstrate the technology of an approach that can be used by the City of Modesto to return some of its existing wells in southwest Modesto to service for some period of time. However, if discharging specific, hazardous contaminants into the San Francisco Bay, through the use of another community’s waste water flow as a diluent, is acceptable currently, it is possible that such disposal methods may lack long term viability. As more communities utilize San Francisco Bay disposal of hazardous water treatment residuals, the capacity of the Bay to assimilate those contaminants may generate environmental problems that could lead to strict limitations, or even a ban on such disposal methods. In addition, until that day arrives, the City may find itself competing with more affluent communities that are able and willing to pay much higher rates to facilitate the disposal of their residuals into the San Francisco Bay, thereby impacting the economic viability of the disposal option.

As a result, the Department believes that the City of Modesto should develop a long term water supply plan that identifies responses that can be readily implemented to assure an adequate supply of good quality domestic water in southwest Modesto when economic and technological pressures restrict the disposal of hazardous water treatment residuals into San Francisco Bay. However, that is an issue that should be addressed independent of the Fairview Village water supply issue.

The Department now recognizes that the Fairview Village development is important to the City of Modesto in satisfying a need for affordable housing and for housing accessible to persons with disabilities. While the Department has some concerns related to environmental issues associated with the Fairview Village development, there is no evidence, at this time, that the proposed process will not meet current environmental standards. Instead, due to a lack of experience with the proposed treatment residual disposal process, the Department will need documentation of the legality and environmental acceptability of the disposal process before permitting the treatment of the water from the new Fairview Village well for domestic use.

Since the Department has the authority to withhold a permit to the City for the new Fairview Village well with the treatment process if the City is not able to provide documentation, with its permit application, that assures the legality and environmental acceptability of the disposal of the hazardous residuals from the new well and treatment system, the Department withdraws any comments in its November 12, 2003 letter that might be detrimental to the approval of the Fairview Village CFD or the progress of the Fairview Village development and the benefits it will bring to the City in terms of affordable housing and housing accessible to persons with disabilities.

Before a permit is issued to the City for the new Fairview Village well with the treatment process that necessitates the disposal of water treatment residuals, it will be necessary for the City to provide documentation to the Department that verifies the legality and environmental acceptability of the disposal of the residuals into San Francisco Bay. If
these requirements are satisfied, the necessary permit will be issued for the new Fairview Village well with the proposed treatment processes.

The Department's familiarity with the ground water in north Modesto and the recharge that results from the extensive irrigation of that general area with high quality surface water provided by the Modesto Irrigation District suggests that importing the limited supply of water needed for the 383 houses to be constructed in the Fairview Village development should have a limited environmental impact on the City of Modesto. However, the limited extent to which water imports from the north into southwest Modesto have been practiced, in spite of the shortage of water of acceptable quality in southwest Modesto, suggests that extensive use of that approach is not viable. Therefore, there are some important environmental issues to be addressed by the City of Modesto before more extensive development is initiated in southwest Modesto.

Therefore, the Department has a mechanism, through the permit process, to deal with the limited environmental concerns related to the 383 houses proposed in the Fairview Village development, appropriate environmental documentation should be developed to address the environmental issues associated with more extensive development in southwest Modesto.

As stated in the Department's letter of November 12, 2003, it appears that the development of treated surface water as a source of domestic supply in the area of Modesto south of the Tuolumne River may be the most viable and sustainable practice for assuring an adequate supply of high quality drinking water in that area. A similar project in the area of Modesto north of the Tuolumne River resolved water quality and quantity shortcomings in that area nearly 10 years ago, and the success of that project suggests that a similar project in the area south of the Tuolumne River would have similar success in solving water quality and quantity problems in that area.

If you have questions concerning this matter, contact me at (209) 948-3816.

Joseph O. Spano, P.E.
District Engineer
Drinking Water Field Operations Branch
Stockton Office

cc: Allen Lagarbo, City of Modesto
    State Clearinghouse, Sacramento
State Department of Health Services

Proposed Changes in the Negative Declaration Resulting from this Letter

The two letters provided instances of comments on the document regarding mitigation of project water quantity and water quality impacts. Where applicable, the document has been revised to clarify the Water Supplies, Water Quality, and Hazardous Materials Sections discussion and respond to the comments as outlined below:

The following responses are related directly to the November 12, 2003, letter, Letter “A”:

A 1. The proposed Well-Head Treatment System (Treatment System) currently planned for the Fairview Village Specific Plan Area (Project) will enable the City of Modesto to provide potable water to the Project area that meets regulatory drinking water standards, including the Maximum Contaminate Levels (MCL) for manganese, nitrate and gross alpha (an indicator for uranium), as well as others.

Manganese removal will be achieved via an adsorption/catalytic oxidation process, using a manganese dioxide based media. The media is self regenerating and highly effective. Manganese dioxide media has been widely used and permitted for a number of years for the removal of manganese from drinking water. Nitrate and uranium reduction will be achieved with an Ion Exchange system. Ion exchange is a proven technology that is well known and has been used commercially in a wide variety of applications for over 50 years. Ion exchange has been designated Best Available Technology by the Environmental Protection Agency for the removal of nitrate and uranium from drinking water sources.

The proposed Treatment System is anticipated to reduce manganese in the treated water to <0.05 mg/L, nitrates to <28 mg/L, and uranium to <2 pCi/L.

A 2. The City uses two water sources (groundwater and surface water) that provide a great deal of flexibility and reliability in operating its water system. New wells continue to be needed to meet existing and future demands in conjunction with the treated surface water.

Despite the shutdown of several wells near the Project area, there is a sufficient supply of water with adequate pressures throughout the City's water system. Water is being provided by wells near the Project area supplemented by a blended mixture of well water and treated surface water via a new 20-inch diameter pipe line from north of the Tuolumne River.

The City is currently working to solve the water quality and quantity issues in the south Modesto area by; (1) identifying potential well-head treatment options that could be installed at well locations currently shut-down so that they can be brought back on-line, (2) constructing new water lines originating north of the Tuolumne River and terminating south of it so that more of the higher quality groundwater extracted north of the river can be utilized in the south, (3) engaging in discussions with the Turlock Irrigation District (TID) about constructing a surface water treatment plant south of the Tuolumne River so as to provide another source of high quality surface water to the south Modesto area. A feasibility study has been completed by TID and they are discussing the possibility of delivering treated surface water to a number of municipal agencies within their jurisdictional boundary, including the south Modesto area, and (4) testing for additional well sites in areas with no known water quality problems. These, in conjunction with the current water conservation program and optimization of the water distribution process (additional
tanks, generators and booster pumps) will provide additional flow and pressure reliability to the south Modesto area.

As the first development within the Project area, the Galas Brothers Subdivision is required to install a new water line that can deliver additional water from outside the immediate area to within the Project area. In conjunction with this new supply line, the anticipated water backbone infrastructure for the Project area includes two wells, well-head treatment facilities, two storage tanks with booster pumps, back-up generators, and various pipe lines needed to convey either potable mixing water to the tanks from a near-by transmission line or distribute the treated water throughout the proposed system.

A 3. City staff is considering various options as to what to do with the wells that have been taken out-of-service due to various types of contaminations. Currently, the most technically and economically feasible alternative is to bring them back on-line using a Treatment System similar to the one being proposed for this Project area (see Response A1).

A 4. See Response A1, A2, and A3.

A 5. The proposed Treatment System for the new wells in the Project area is based on proven technology that will produce high quality drinking water, with minimal energy and maintenance costs, that can be either purchased or leased, and compares favorably with other alternatives for supplying the Project area with potable water.

A 6. The waste material resulting from the Treatment System process will be disposed of in accordance with all applicable laws governing such activities, and this cost has been contemplated throughout the planning process of the Project.

A private company will be contracted to collect, transport, and dispose of the brine wastewater from the Treatment System. The liquid brine wastewater will be hauled to a Publicly Owned Treatment Works (POTW) that is permitted to accept the brine. The anticipated POTW is not within the City’s current sewer service area and the cost of treatment and disposal of the brine wastewater will be included in the monthly processing fee.

The proposed Treatment System has a very low brine wastewater production rate. The eliminated waste rate for this unit requiring off-site disposal, which takes into consideration the water quality chemistry from the site, is expected to be approximately one-quarter of one percent (0.25%) of the amount of water treated.

The only waste generated by the nitrate/uranium treatment process requiring special handling and disposal is the spent regenerant (brine). The brine is expected to be characterized as a Non-Hazardous Liquid per Federal, State and local regulations and it will be disposed of accordingly. The wastewater produced for the backwashing and rinse process of the manganese dioxide media is very innocuous and can be discharged directly to the sewer system.

Once the treatment unit has been operating and several regeneration cycles have occurred, the brine wastewater is sampled for characterization. The brine is analyzed at a California Certified Laboratory for total metals and in accordance to California Code of Regulations, Title 22 (CA 17), and pH, plus any other constituents required by the disposal facility(ies). It is expected that the brine will not exceed any of the regulatory levels for metals per 40 CFR 261 and CCR 22; and therefore may be classified as Non-Hazardous.
Uranium will be present in the brine in a small concentration as indicated above. There are no Federal treatment standards established and based on the estimated concentration in this particular waste stream, it can be classified as NRC exempt in accordance to 10 CFR 40.13 (a) – Unimportant quantities of source material.

The brine generation, storage, transportation and disposal process has been designed to be a “closed-loop” program providing the highest level of personal and environmental exposure protection. The treatment system will be equipped with two (2) – 6,500 gallons (or 13,000 gallons storage capacity) brine storage tanks. Upon regeneration of the ion exchange beds, the spent or waste brine will automatically flow to the waste storage tanks. Both waste tanks are piped together so that the waste volume increases in each tank equally, although these can be segregated for maintenance, if necessary. The waste discharge line from each tank is piped to a common discharge line leading to a waste lock box mounted on the fence at the perimeter of the property (of the well). Shipments are scheduled after enough volume has been accumulated and a full tanker truckload (5,000 gallons) can be made. The truck will hook-up to a 4’ leak tight male cam lock, and remove the brine via vacuum. The brine is then transported directly to the disposal facility. Once the truck arrives at the disposal facility, it will adhere to their requirements for discharge including the necessary paperwork.

The facilities owned and operated by the East Bay Municipal Utility District (EBMUD) is relatively close and is large enough, they receive shipments on a 24/7 basis, thus, it makes them the primary option to contract with regarding disposal of the waste brine.

A 7. The specific details as to which method of transportation, haul routes, or disposal facilities have yet to be determined. A number of options are available, but at no time will the disposal method or handling of the waste material violate any local, State, or Federal law.

Also, see Response A6.

A 8. Well 100 (formerly Well 60 and Old Well B9 prior to that) first went off-line in October 2003, thus, the water system has not gone through a summer without it being available. City staff will continue to meet all DHS regulations regarding low pressure disclosure requirements.

Also, see Response A1, A2, and A3.


A 10. It is the City’s practice to use the best possible and most practical source of water available. It is also the City’s practice to always consider the quality and quantity of availability water when selecting a potential well site.

A 11. New water quality regulations currently being developed by the EPA has been anticipated in the planning of the Treatment System for the Project area. The cost increases associated with meeting the new regulations have also been anticipated in the Project’s budget and planning process.


A 13. The operation of the Modesto Regional Water Treatment Plant (MRWTP) since 1995 has eliminated the basin overdraft condition that existed prior to use of treated surface water. The MRWTP also provides the City with conjunctive use opportunities including blending and groundwater recharge.

The following responses are related to the November 24, 2003, letter from State Department of Health Services, (letter “B”):

B 3. See Response A2.
B 5. See Response A6.
B 7. See Response A6.
B 10. See Response A2.
B 11. Yes, DHS has the mechanism, through the permit process, to deal with the limited environmental concerns related to the proposed project, and the appropriate environmental documentation (as required by the California Environmental Quality Act guidelines) addressing each of the identified environmental issues is a requirement for every project developed within the City, including the south Modesto area.
November 18, 2003

Patrick Kelly  
City of Modesto  
P.O. BOX 642  
1010 10th Street  
Modesto, CA 95353

Subject: Fairview Village CFD #2003-1  
SCH#: 2003102055

Dear Patrick Kelly:

The enclosed comment(s) on your Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on November 12, 2003. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2003102055) when contacting this office.

Sincerely,

Terry Roberts  
Senior Planner, State Clearinghouse

Enclosures  
cc: Resources Agency
REFER TO LETTER "A"
STATE DEPARTMENT OF HEALTH SERVICES
DATED NOVEMBER 12, 2003
RESPONSE TO LETTER "C", RECEIVED NOVEMBER 20, 2003
Governors Office of Planning and Research

See response to Letters "A" and "B" dated November 12, 2003 from Department of Health Services.

Proposed Changes in the Negative Declaration Resulting from this Letter

No changes are necessary. No new environmental issues were raised by these comments.
November 13, 2003

Patrick Kelly
City of Modesto
P.O. BOX 642
1010 10th Street
Modesto, CA 95353

Subject: Fairview Village CFD #2003-1
SCH#: 2003102055

Dear Patrick Kelly:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on November 12, 2003, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency
SCH# 2003102055

**Project Title**  Fairview Village CFD #2003-1

**Lead Agency**  Modesto, City of

**Type**  Neg  Negative Declaration

**Description**  The project consists of formation of the Fairview Village Community Facilities District #2003-1 ("Fairview Village CFD"). The project includes the creation of a financing mechanism to fund construction of certain regional infrastructure with the Fairview Village Specific Plan area. A portion of the plan area contains the Galas Brothers Vesting Tentative Subdivision Map Units 1 & 2, consisting of 81.66 acres located in the northeast portion of the Fairview Village Specific Plan ("Galas Subdivision"). Development of the Galas Subdivision includes 383 single family residential lots, a water well, storm drainage basin, water tank, sewer outfall line & a portion of the central neighborhood park site & its related infrastructure. The Fairview Village CFD will fund a portion of the infrastructure & its maintenance. The Galas Subdivision will be responsible for constructing a portion of this infrastructure, will be subject to the CFD tax & may be entitled to certain reimbursements for that work. The remaining properties within the 359 acre Fairview Village Specific Plan area will annex to this CFD in the future, as that area develops. Further planning studies & environmental review will be required before the properties may develop or annex to the CFD.

**Lead Agency Contact**

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<tbody>
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**Project Location**

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**Proximity to:**

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**Project Issues**

Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Cumulative Effects

**Reviewing Agencies**

Resources Agency; Department of Conservation; Department of Fish and Game, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 10; Caltrans, Division of Transportation Planning; Department of Housing and Community Development; Department of Health Services; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; State Lands Commission

**Note:** Blanks in data fields result from insufficient information provided by lead agency.
| Date Received | 10/14/2003 | Start of Review | 10/14/2003 | End of Review | 11/12/2003 |

**Note:** Blanks in data fields result from insufficient information provided by lead agency.
RESPONSE TO LETTER “D”, RECEIVED NOVEMBER 14, 2003
Governors Office of Planning and Research

This letter provided a record of the assigned State Clearinghouse Number, 2003102055, and circulation to Responsible Agencies.

Proposed Changes in the Negative Declaration Resulting from this Letter

No changes are necessary. No new environmental issues were raised by these comments.
November 12, 2003

Patrick Kelly
City of Modesto – C&ED
PO Box 642
Modesto, CA 95353

SUBJECT: ENVIRONMENTAL REFERRAL-CITY OF MODESTO-DRAFT
MITIGATED NEGATIVE DECLARATION FOR THE FAIRVIEW
VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2003-01

Mr. Kelly:

The Stanislaus County Environmental Review Committee (ERC) has reviewed
the subject project and has the following comment(s):

- The ERC attaches hereto and incorporates herein by reference the
correspondence from the San Joaquin Valley Air Pollution Control District to
the City of Modesto dated November 12, 2003.

- The ERC attaches hereto and incorporates herein by reference the
correspondence from the Stanislaus Council of Governments to the City of

- The ERC attaches hereto and incorporates herein by reference the
correspondence from the Stanislaus County Department of Parks and
Recreation to the City of Modesto dated November 12, 2003.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

W. Richard Jantz, Deputy Executive Officer
Raul Mendez, Senior Management Consultant
Environmental Review Committee

cc: ERC Members
REFER TO LETTER "F"
SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
DATED NOVEMBER 12, 2003
REFER TO LETTER "I"
STANISLAUS COUNCIL OF GOVERNMENTS
DATED OCTOBER 31, 2003
June 24, 2003

City of Modesto
Mr. Patrick Kelly
C&ED/ Planning Division
Tenth Street Place/ Third Floor
P.O. Box 642
Modesto Ca. 95353

Dear Mr. Kelly,

As a member of the Stanislaus County Environmental Review Committee (ERC), we are offering the following comments on the Specific Plan Amendment to the Fairview Village Specific Plan:

This development once fully built, will have a considerable impact to our existing Fairview Park. The impact includes an increased use of the existing park by Fairview Village residents and the operation and maintenance cost associated with this influence. In addition, there could be an impact on the alignment of Yuma Avenue depending on the set backs required for the western boundary regarding fencing, sidewalks, and streets.

We recognize that the project is within Modesto City limits. However, a project of this size developed in the County, would require a minimum of 3 acres per 1000 residents. Our recommendation is to mitigate the impact of the development by working with the City of Modesto Parks Department to expand the recreational opportunities for this project.

Using a formula based on the County General Plan requirements of 3 acres of park land per 1000 residents would suggest that this project have 21.6 acres of park. Your plan dedicates 10 acres for parks.

If you have any questions about these comments please feel free to call me or Deputy Parks Director, David Piper, at (209) 525-6750.

Sincerely,

Marty Johnson, Special Projects
Stanislaus County Department of Parks & Recreation

cc: David Piper, County Parks
Bob Kachel, County Planning
Arlene Stevens, CEO/ERC
Jim Niskanen, City parks
Doug Critchfield, City parks
RESPONSE TO LETTER "E", RECEIVED NOVEMBER 14, 2003
Stanislaus County Chief Executive Office

The Stanislaus County Environmental Review Committee sent comment letter that combines comments from other agencies.

Proposed Changes in the Negative Declaration Resulting from this Letter

No changes are necessary. No new environmental issues were raised by these comments.

E 1. See response to Letter “F” from the San Joaquin Valley Air Pollution District.

E 2. See response to Letter “I”, StanCOG.

E 3. The commentor refers to a letter dated June 24, 2003 from the County Department of Parks and Recreation that comments on a proposed amendment to the Fairview Village Specific Plan. The letter suggests the Plan should provide 3 acres of park land per 1000 residents, based on the County’s General Plan requirements. Notwithstanding the system of regional open space that is planned and available, the City of Modesto Parks and open space standards provide 2 acres per 1000 for neighborhood parks and 1 acre per 1000 for community parks.
November 12, 2003

Patrick Kelly
Community and Economic Development Department
City of Modesto
P.O. Box 642
Modesto Ca 95353

SUBJECT: INITIAL STUDY AND DRAFT MITIGATED NEGATIVE DECLARATION FOR THE FAIRVIEW VILLAGE COMMUNITY.

Dear Mr. Kelly:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the proposed projects and offers the following comments:

The San Joaquin Valley's air quality has been designated nonattainment by the EPA and by the Air Resources Board (ARB) for O₃ (ozone) and PM-10 (fine particulate matter, dust). The Federal Clean Air Act (CAA) and the California Clean Air Act require areas that are designated nonattainment to reduce emissions until standards are met.

Based on the information provided, this project will exceed the District Small Project Analysis Level (SPAL) for impact on the ambient air quality. However, the significant air quality impacts from this development should have been addressed in previous environmental documents certified by the City of Modesto. If this project has not been the subject of environmental review from an air quality perspective, please provide that information so that appropriate comments may be made.

The construction phase of this project can generate emissions from the movement of soil, use of heavy equipment, bulk materials handling, asphalt paving and other related activities. As a result, this project is subject to District Regulation VIII (Fugitive Dust Prohibitions). The purpose of Regulation VIII is to reduce the amount of fine particulate matter (PM-10) entrained into the ambient air from man-made sources. The Regulation
VIII series of rules has been updated and amended since the original environmental review for Village One was completed. The complete set of rules is available at the District's web site www.valleyair.org. A Dust Control Plan must be submitted for the District's approval at least 30 days before construction activities begin if the project cumulatively encompasses 40 acres or more or will move more than 2,500 cubic yards per day of material on at least three days of the project. A Compliance Assistance Bulletin has been enclosed for your review.

On July 17, 2003 amendments to Rule 4901 were adopted by the District's Governing Board. Amendments to the rule affect future construction plans for residential developments, the following is a summary of these changes:

§5.3 Limitations on Wood Burning Fireplaces or Wood Burning Heaters in New Residential Developments.
Beginning January 1, 2004,
5.3.1 No person shall install a wood burning fireplace in a new residential development with a density greater than two (2) dwelling units per acre.
5.3.2 No person shall install more than two (2) EPA Phase II Certified wood burning heaters per acre in any new residential development with a density equal to or greater than three (3) dwelling units per acre.
5.3.3 No person shall install more than one (1) wood burning fireplace or wood burning heater per dwelling unit in any new residential development with a density equal to or less than two (2) dwelling units per acre.

District Rule 4103 regulates the burning of agricultural material. Agricultural material may not be burned if the land use is converting from agriculture to nonagricultural purposes. In the event that the project burns agricultural material, it would be in violation of Rule 4103 and be subject to District enforcement action.

As a result of the Valley's nonattainment status, the District strongly recommends that the project applicant and the City of Modesto implement all feasible mitigation measures to reduce the amount of ozone precursors that will result from the buildout of this project. Please note that some of these measures may already exist as City development standards.

♦ Energy efficient design including automated control system for heating/air conditioning and energy efficiency beyond Title 24 requirements, lighting controls and energy-efficient lighting in buildings, increased insulation beyond Title 24 requirements, and light colored roof materials to reflect heat.

♦ Planting of deciduous trees on the south and westerly facing sides of buildings.
If transit service is available to the project site, improvements should be made to encourage residents to use it. If transit service is not currently available, but is planned for the future, appropriate easements should be reserved to provide for future improvements such as bus turnouts, loading areas, and shelters.

Sidewalks and bikepaths should be installed throughout as much of the project as possible and should be connected to any nearby open space areas, parks, schools, commercial areas, etc.

When future project(s) reach the design phase, the District recommends that the applicant(s) consider design features which serve to reduce vehicle trips and increase activities such as walking, bicycling, transit use, and energy conservation, all of which help to reduce emissions. The District’s *Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI)* describes these features. The current GAMAQI can be found at our website www.valleyair.org in the Site Map under CEQA Guidance Documents. Residential project design should use models put forward by the Local Government Commission (LGC). LGC has a wealth of information, publications (e.g. *Building Livable Communities: A Policymaker’s Guide to Infill Development*), and links (e.g. Affordable Housing Design Advisor) to help create efficient, livable communities. More information can be found at http://www.lgc.org/.

The City should consider the energy saving effects of tree placement around housing units. A brochure has been included for more information. Sources for information on urban trees include:

http://www.coolcommunities.org,
http://www.energy.ca.gov/coolcommunity/strategies.html

Developments should include as many clean alternative energy features as possible to promote energy self-sufficiency. Examples include (but are not limited to): photovoltaic cells, solar thermal electricity systems, small wind turbines, etc. There are many rebate and incentive programs that encourage different types of alternative energy sources. More information can be found at:

http://www.dsireusa.org/
http://homepower.com
http://www.energy.ca.gov/renewables/
The City should consider energy efficient design beyond Title 24 requirements. Examples of design elements include (but are not limited to): increased wall and ceiling insulation (beyond building code requirements); energy efficient lighting and high efficiency appliances; awnings or other shading mechanism for windows; ceiling fans; roofing materials with a high albedo to reflect heat; orient the units to maximize passive solar cooling and heating when practicable; install electrical outlets around the exterior of the units to encourage use of electric landscape maintenance equipment, install natural gas lines and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues; low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers or gas or electric barbecues); exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site, etc. More information can be found at:

http://www.sustainable.doe.gov/
http://www.consumerenergycenter.org/index.html
http://www.energy.ca.gov/coolcommunity/strategies.html

Finally, one of the issues that will arise in conjunction with any proposed renovation/demolition of existing building in the project area is compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAPS). Specifically, the primary air pollutant of concern is asbestos. To ascertain whether this project is subject to NESHAPS, the project applicant is advised to review the enclosed Asbestos - Compliance Assistance Bulletin, dated December 1994. Brian Dodds is the Northern Region's District contact for the program and is available should you need further assistance.

Thank you for the opportunity to comment. If you have any questions, please feel free to contact me at (209) 557-6400.

Sincerely,

John Cadrett
Environmental Planner
Northern Region

C:file
SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
Compliance Assistance Bulletin- December, 1994
Asbestos Synopsis

Asbestos Demolition/Renovation-Summary:

Prior to any renovation or demolition of a facility:

**Inspect:** Conduct an asbestos inspection of the site before:
- Any renovation which 160 sq. ft. of building materials, or 260 linear feet of pipe insulation will be disturbed, or
- Any demolition of a facility with or without asbestos-containing materials

**Notify:** Submit an asbestos notification form for any regulated renovation or demolition, 10 working days before the activity.

**Fees:** Fees must be paid to the District with the notification for all regulated renovations and demolitions.

**Demolition Release Form:** Prior to any demolition, you must have completed a demolition release form. Upon its approval by the District this signed form may be used as proof (needed by the building official) of compliance with, or exemption from, the NESHAP notification requirements.

Submit this form to the building department with your application for a demolition permit.

Applicability

**Facilities** subject to the NESHAP (regulated facilities) include all commercial buildings, apartments with more than 4 units, other structures and non-portable equipment. Single family dwellings may be exempt, but only on a case by case basis.

**Demolitions** subject to the NESHAP (regulated demolitions) are demolitions of facilities described above, whether or not asbestos is present.

**Regulated renovation** applies to any activity in which 160 sq. ft. of regulated asbestos-containing building materials or 260 linear feet of asbestos-containing pipe insulation is disturbed at a regulated facility.

Asbestos Notification and Inspection Requirements

Definitions

| Facilities: | Facilities subject to the rule include "all structures, installations, buildings and equipment, except for single family dwellings and apartments with four or fewer dwelling units." Single family dwellings and apartments are also subject to the regulation if:
|             | - There is more than one building at a site being renovated or demolished, or
|             | - The building had been used for, or is being removed for a commercial or public use, or is to be used as a training burn exercise. |
| Demolition: | In addition to the total destruction of a structure, demolitions include "the removal of any structural load-bearing member from a facility together with any related handling operations or the intentional burning of a building; (training burns conducted by a fire fighting agency). Also, the separation of a structure from its foundation prior to relocation is a demolition. |
| Renovation: | Altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material (RACM) from a facility component. Renovations include all activities in which asbestos could be disturbed at a regulated facility, including the clean up and removal of debris from buildings which have burned. |
## Asbestos Synopsis

<table>
<thead>
<tr>
<th>Definitions, Continued</th>
<th>Regulated Asbestos-Containing Materials (RACM) include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friable Asbestos-Containing Material (ACM):</td>
<td>(1) Friable asbestos-containing material (ACM).</td>
</tr>
<tr>
<td>Friable Asbestos-Containing Material (ACM):</td>
<td>(2) Category 1 nonfrangible ACM in poor condition and “has become friable” or that has or will be subjected to sanding, grinding, cutting, or abrading.</td>
</tr>
<tr>
<td>Category I nonfrangible ACM:</td>
<td>(3) Category II nonfrangible ACM that has a high probability of becoming, or as become, crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation.</td>
</tr>
<tr>
<td>Category II nonfrangible ACM:</td>
<td>Any asbestos-containing materials, excluding Category 1 ACM, containing more than 1 percent asbestos as determined by PLM testing, which when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.</td>
</tr>
</tbody>
</table>

### Inspection

- Any regulated demolition.
- Any renovation activity in which more than 160 sq. ft. of any building material or 260 linear feet of pipe insulation will be disturbed.

An inspection is not required if the material to be disturbed is stipulated to be asbestos-containing and will be removed in accordance with the NESHAP.

### Inspection Report Must Include:

- A schematic showing the location of all tested materials.
- The following data for all asbestos-containing materials:
  1. The amount and description of each material.
  2. Percent asbestos content.
  3. Whether or not the material is friable.

### Notification

An asbestos notification must be submitted to the District at least 10 working days prior to:

1. Any regulated demolition.
2. Any renovation in which more than 160 sq. ft. or 260 linear ft. of RACM will be disturbed.

A copy of the Asbestos Inspection Report must be included with the Notification.

Notification will not be considered complete, nor will the 10 working day notice period begin until all required information and fees have been submitted to the District.

### Fees

- District Rule 3050 requires that nonrefundable asbestos fees be received along with asbestos job notifications. Fees must be paid for regulated asbestos abatement projects and regulated demolition projects, whether or not asbestos is present.

### Demolition Release Form

- The California Health and Safety Code requires that the city or county building official have proof of compliance with, or exemption from, the asbestos notification requirement before he or she issues a demolition permit.

After the District has received a demolition notification and is satisfied that the NESHAP notification requirements have been complied with, the District will issue a Demolition Release Form to the person who submitted the notification.

### Recycle and Waste Disposal

The asbestos notification must also identify any building materials which will be recycled after removal from a project. The name of the recycling contractor and location of such activity must be identified.
Fugitive Dust Control at Construction Sites

Regulation VIII, Fugitive PM10 Prohibitions, of the District’s Rules and Regulations regulates activities that generate fugitive dust. Fugitive dust is emitted to the air from open ground or caused by activities such as excavation, transporting bulk materials, or travel on unpaved surfaces. “PM10” is a term applied to small sized particulate matter - microscopic dust particles - in the air. The San Joaquin Valley currently exceeds the air quality standards for particulate matter. It is for this reason that the District adopted Regulation VIII in 1993. Significant amendments to Regulation VIII were adopted in 2001 and became effective May 15, 2002. The following dust control and administrative requirements are applicable at construction sites:

Visible Dust Emissions (VDE). Visible dust emissions may not exceed 20% opacity during periods when soil is being disturbed by equipment or wind at any time. Dust control may be achieved by means of applying water before and during earth work and on traffic areas, phasing work to limit dust, and setting up wind fences to limit wind blown dust. VDE opacity of 20% means the amount of dust that would obstruct the view of an object by 20%.

Soil stabilization. Soil stabilization is required at any construction site after normal working hours and on weekends and holidays. This requirement also applies to inactive construction areas such as phased projects where disturbed land is left unattended. Applying water to form a visible crust on the soil is an effective method for stabilizing a disturbed surface area. Long-term methods include applying dust suppressants or establishing vegetative cover. Restricting vehicle access from the area will help to maintain a stabilized surface. Information regarding stabilization standards and test methods are in Rule 8011 – General Requirements.

Carryout and Trackout. These requirements are found in Rule 8041 – Carryout and Trackout. Carryout and trackout are materials adhered to vehicle tires and transport vehicles carried from a construction site and deposited onto a paved public road. Should carryout and trackout occur, it must be cleaned up at least daily, and immediately if it extends more than 50 feet from the exit point onto a paved road. The recommended clean-up methods include manually sweeping, sufficiently wetting the area prior to mechanical sweeping to limit VDE or using a PM10-efficient street sweeper. A blower device, or dry sweeping with any mechanical device other than a PM10-efficient street sweeper is prohibited.
Haul Roads. Dust control is required on all haul roads and unpaved vehicle and equipment traffic areas at construction sites, per Rule 8021 – Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities.

Storage Piles and Bulk Materials. The handling, storage, and transportation requirements for bulk materials are found in Rule 8031 – Bulk Materials. These requirements include: applying water as materials are handled, stabilizing or covering stored materials, and installing wind barriers to limit VDE. Limiting vehicle speed, loading haul trucks with a freeboard six inches or greater, covering haul trucks, or applying water to the top of the load are options for reducing VDE from vehicle transportation of bulk materials.

Demolition. Wetting of the exterior of a building to be demolished is required. Demolition debris and the area around the demolition must also be controlled to limit VDE. Cleaning up carryout and trackout must be completed according to Rule 8041. Demolition activities are also subject to the District’s asbestos rule, Rule 4002 – National Emission Standards for Hazardous Air Pollutants.

Dust Control Plans. For large construction projects, Rule 8021 requires the owner or contractor to submit a Dust Control Plan to the District for approval at least 30 days prior to commencing construction activities. This requirement applies to projects that include 40 or more acres of disturbed surface area or will involve moving more than 2,500 cubic yards per day of material on at least three days during the project.

Record keeping. All sites subject to the regulation that employ dust control measures must keep records for each day any dust controls are used. The District has developed record keeping forms for water application, street sweeping, and for “permanent” controls such as applying long term dust palliatives, vegetation, ground cover materials, paving, or other durable materials. Pursuant to Rule 8011, records must be kept for one year after the end of dust generating activities.

Exemptions. Activities in areas above 3,000 feet elevation are exempt from all Regulation VIII requirements. The following exemptions in Rule 8021 apply to construction activities:

- Blasting activities
- Maintenance and remodeling of existing buildings if the addition is less than 50% of the size of the existing building or 10,000 square feet. These activities, however, are subject to the District’s asbestos rule, Rule 4002.
- Additions to single family dwellings
- Mowing, disking or other weed control on sites less than ½ acre.

Nuisance. Whether or not the construction activity is exempt from the Regulation VIII requirements, any activity that creates fugitive dust must not cause a nuisance, per Rule 4102 - Nuisance. Therefore, it is important to monitor the dust generating activities and, if necessary, plan for and implement the appropriate dust control measures to limit the public’s exposure to fugitive dust.

This is a basic summary of Regulation VIII as it applies to the construction industry. For more information contact the Compliance Division of the District office nearest to you.
RESPONSE TO LETTER “F”, RECEIVED NOVEMBER 13, 2003
San Joaquin Air Pollution Control District

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 14 instances of comments on the document regarding mitigation of project air quality impacts. Where applicable, the document has been revised to clarify the Air Quality Section discussion and respond to the comments as outlined below:

F 1. The significant air quality impacts of the project, which is a part of the Fairview Village Specific Plan were addressed in the Fairview Village Specific Plan Focused EIR (SCH#95 as well as through the Air Quality section of the recently updated General Plan Master EIR (SCH#1999082041). Air Quality Mitigation measures (specifically, PM-10) were applied to the project from the Master EIR, see Exhibit F, Mitigation Monitoring Plan.

F 2. As indicated in the discussion item for Air Quality, item b) page 10 of the Mitigated Negative Declaration, Regulation VIII (Fugitive Dust Rules) would be applied to the project to meet the Air District's air quality standards. The following revised Language indicating a Dust Control Plan must be submitted pursuant to Regulation VIII will be made to the mitigation measure clarify the SJVUAPCD requirement:

Mitigation Measure – Air Quality
“a. All applicable sections of SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10 (Rules 8011 through 8081) shall be applied to the project including Rule 8021 Section 6.3 Dust Control Plan. In addition, the following controls are required to be implemented at all construction sites:”

F 3. The project is formation of a financing district to fund installation of infrastructure to serve the Galas Brothers Subdivision, and eventually the remaining Specific Plan area. Conditions were placed upon the Vesting Tentative Subdivision Map at time of approval (December 1997). As the comment notes, future construction plans in the remaining Specific Plan area would certainly be subject to Rule 4091. Residential development of the remaining portion of the 359-acre Specific Plan area will be subject to this rule.

F 4. District Rule 4103 that applies to converting land use from agriculture to non agricultural purposes could potentially apply to the conversion of vineyards and orchards to the public infrastructure sites. Since these sites are within the Galas Brothers subdivision, the land will probably be cleared prior to development of the subdivision. The City will apply the following condition to the entitlement for development such as the grading permit:

“Pursuant to San Joaquin Valley Air Pollution District Rule 4103, agricultural material may not be burned if the land use is converting from agricultural to non-agricultural purposes.”

F 5. The suggested Air Quality mitigation measures are contained in the General Plan Master EIR in a similar form and were incorporated into the project design via the Fairview Village Focused EIR Air Quality Mitigation Measure applied to this project.

F 6. Energy efficient design – title 24 requirements are routinely enforced by the City’s Building Division plan check process for development applications, including residential development.
F 7. Trees and Energy efficiency - The City’s General Plan policy for energy (Energy Conservation, Policy I.a.) addresses orientation of tree plantings to promote energy efficiency.

F 8. Transit - Modesto General Plan policies, chapter V Section I, requires the assessment of the feasibility of transit service facilities in subsequent projects, such as the Fairview Village Specific Plan. Appropriate transit facilities will be designed into the development of the Specific Plan Area to serve the Galas Brothers subdivision as well as the remainder of the Fairview Village CFD area.

F 9. Pedestrian access to school site – General Plan Neotraditional Planning Principles, Policy III.C.3, were factored into the Specific Plans Connector Street layout, Figure 2.9 Circulation and Access Concept, which includes a component for pedestrian sidewalks.

F 10. Design considerations to reduce vehicle trips – all suggested guidelines are excellent sources for project design. Since its adoption in 1995, the General Plan and General Plan MEIR require the review of project design in light of the Neotraditional Planning Principles contained in the General Plan. Development standards based on these and similar models for residential development are proposed for adoption into the Fairview Village Specific Plan Amendment that should occur in the near future.

F 11. Energy saving effects of tree placement – the suggested sources are noted, see also response to item No. 7.

F 12. Clean energy features – the suggested sources are noted, the use of these alternative energy sources is encouraged by the City’s General Plan.

F 13. Design beyond Title 24 requirements – the sources cited provide very good recommendations on use of energy efficient and less polluting technologies.

F 14. The proposed project area is almost entirely existing agricultural lands that do not contain structures that would be demolished during the development process. The specific bulletin regarding asbestos (NESHAPS) and contact person, is noted.
November 05, 2003

Patrick Kelley
Principal Planner
Community & Economic Development Department
City of Modesto
P.O. Box 642
Modesto, CA 95353

Re: Draft Mitigated Negative Declaration for the Fairview Village Community Facilities District No. 2003-01.

Dear Mr. Kelley:

Modesto City Schools has no opposition to the above referenced Initial Study and Draft Mitigated Negative Declaration addressing the impacts of a proposed formation of a Community Facilities District No. 2003-1 to provide a financing mechanism for the Fairview Village Specific Plan area and fund the infrastructure and its maintenance for the Galas Brother Subdivision.

Modesto City Schools, the Galas's (Galas Brothers, West Port Landing), and Darrell J. Leamon (West Port Landing #1 and #2) each entered into a mitigation agreement in October 1997. The agreement calls for payment to the District of $8,643 (K-8 = $5,060 and 9-12 = $3,583) for each residential unit built. This amount is adjusted annually for inflation. The mitigation agreement is binding on the land and successors in interest.

Regarding the remaining land in the Fairview Village Specific Plan: To the extent allowed by state law, annexation to the appropriate schools community facilities district will be required as a condition of final map approval. If this requirement cannot be enforced due to the status of state law, then prior to issuance of the first building permit or final map approval, whichever is earlier, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

Please feel free to contact me at (209) 576-4032 should you have any questions on this response.

Sincerely,

Becky M. Meredith
Director, Planning and Research
RESPONSE TO LETTER “G”, RECEIVED NOVEMBER 12, 2003
Modesto City Schools

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 2 instances of comments on the document regarding mitigation of project school district impacts. Where applicable, the document has been revised to clarify the Schools Section discussion and respond to the comments as outlined below:

G 1. Payment of appropriate school district facilities impact fees is required as a precondition to development by the City’s General Plan. The developer must provide proof of payment of fees in order to proceed with obtaining building permits. No new issues raised by comment, no revisions to the document are necessary.

G 2. The condition of development cited is required by the City’s General Plan policies. The City will continue to coordinate with the affected school district(s) to determine whether the project’s impacts on school capital facilities if fully mitigated prior to approving development. No new issues raised, no revisions to the document are necessary.
November 7, 2003

Mr. Patrick Kelly
City of Modesto
Planning and Community Development
1010 Tenth Street, Suite 3400
Modesto, CA 95354

Dear Mr. Kelly:

Thank you for the opportunity to review the Fairview Village Community Facilities District No. 2003-1 application. The proposed project is to provide a financing mechanism for the Fairview Village Specific Plan area and fund the infrastructure and its maintenance for the 81.66 acre Galas Brothers subdivisions, a 383 lot residential subdivision in southwest Modesto Urban Area, south side of Hatch Road and east of Carpenter Road.

I have reviewed the proposed project and circulated it with the various Caltrans departments and have the following comments based on the additional data submitted from previous submissions:

TRAFFIC OPERATIONS:

- Collect Impact fees towards future improvements at the following intersections:
  - State Route 99 and Crows Landing Road and Hatch Road.
  - State Route 132 and Carpenter Road.

Please forward all Final Conditions of Approval including any mitigation measures that are being proposed as well as any other documents and reports (i.e. all forms of environmental documents, Traffic Impact Study Reports, site and location maps, etc) on this proposed project for our review, comment, and records. If you are aware of any controversy regarding any of our requirements, please contact us as soon as possible so we may work together to resolve them before submittal to your Board.
If you have any questions or would like to discuss our comments in more detail, please contact David Cooper at (209) 948-7190 (e-mail: david_cooper@dot.ca.gov) or myself at (209) 941-1921. We look forward in continuing to work with you in a cooperative manner.

Sincerely,

TOM DUMAS, Chief
Office of Intermodal Planning

c: State Clearinghouse
   P. O. Box 3044
   Sacramento, CA 95812-3044

"Caltrans improves mobility across California"
RESPONSE TO LETTER “H”, RECEIVED NOVEMBER 7, 2003
State Department of Transportation – CALTrans District 10

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 2 instances of comments on the document regarding mitigation of project traffic impacts. Where applicable, the document has been revised to clarify the Transportation and Circulation discussion and respond to the comments as outlined below:

H 1. Traffic Operations.
The letter indicates that for the development associated with the Fairview Village CFD the City should "Collect Impact fees towards future improvements at the following intersections:

- State Route 99 and Crows Landing Road and Hatch Road
- State Route 132 and Carpenter Road

**State Route 99 and Crows Landing Road and Hatch Road:**
The City of Modesto’s Capital Facilities Fee (CFF) program does not include a fee component for improvements to the two State Route 99 interchanges listed. The CFF program is based on the City’s General Plan Traffic Impact Model. The model shows these two interchanges are not as impacted as the Hammet, Kiernan, Pelandale, Beckwith, and Brigsmore interchanges at buildout year 2025. The CFF program does contribute funding to the improvement of these more impacted interchanges. More specifically, there is a project adjacent the 7th and Hatch road intersection included in the CFF program to upgrade facilities serving that interchange.

**State Route 132 and Carpenter Road:**
The City’s Capital Facilities Fee (CFF) would be collected at Building Permit for all proposed development within the Fairview Village CFD area (Fairview Village Specific Plan). The CFF program includes $24,000,000 in impact fees which will be collected towards the construction of SR132 from SR99 to Morse (City of Modesto, Capital Facility Fee, item No. 257, Street Improvements Projects Summary). This segment includes State Route 132 and Carpenter Road intersection improvements.

H 2. Forward all Applicable Project Materials
The applicable documents relating to this proposal include:
- Fairview Village CFD 2003-1 Final Mitigated Declaration
- Fairview Village Specific Plan (adopted December 1995)
- Fairview Village Focused EIR, including traffic study (certified December 1995)
- General Plan Master EIR, including updated traffic model
- Galas Brothers subdivision Map (approved 1997, included referral to DOT)
- Engineers report, Fairview Village Community Facilities District

If your agency does not have any of these documents, please contact me at 577-5280 and we will have copies provided to you or go to the City’s Community and Economic Development Department web site at www.modesto.gov for the Specific Plan, General Plan and General Plan Master EIR documents.
October 31, 2003

Re: Draft Mitigated Negative Declaration for the Fairview Village Community Facilities District

Dear Mr. Kelly:

Thank you for giving the Stanislaus Council of Governments (StanCOG) the opportunity to review and comment on the proposed project referenced above (2003-01). The proposed project is to provide a financing mechanism for the Fairview Village Specific Plan area and fund the infrastructure and its maintenance for the Galas Brothers subdivision. The project location is in the southwest Modesto Urban area, on the south side of Hatch Road, east of Carpenter Road.

As the Regional Transportation Planning Agency for Stanislaus County, StanCOG is concerned with impacts to the regional roadway system. One of StanCOG’s policies, identified in its Regional Transportation Plan is, “To ensure that the regional transportation system operates efficiently to reduce congestion and improve mobility for people and goods.” The Draft Initial Study, page 8, Traffic and Circulation, states there will be no impacts to the city roadway system as a result of the proposed development, with reference to the Modesto General Plan and Fairview Village Specific Plan. In addition, the project will contribute to Modesto’s Capital Facility Fee (CFF) Program, which includes improvements to Hatch Road. However, the initial study makes no reference to the regional road network.

According to the Fairview Village Specific Plan, page 2, Fairview Village is a proposed planned community for approximately 5000 people, to include approximately 2250 homes. This equates to over 2,000 peak hour trips and 20,000 daily trips at buildout. It is a logical assumption a substantial percentage of these trips will utilize Carpenter Road north to State Route (SR) 132. In fact, StanCOG’s regional model forecasts Carpenter Road adjacent to and north of the proposed project to be Level of Service (LOS) F in 2025. The Specific Plan, page 36, identifies traffic impact mitigation measures for buildout of subareas A and B. This mitigation includes improvements to the intersections of Hatch Road and Robertson Road with Carpenter Road. However, no improvements are included for the intersection of Carpenter and Whitmore Avenue, the Carpenter Road bridge over the Tuolumne River (currently 2 lanes), or to the future widening of Carpenter Road itself, to accommodate future traffic, which is identified in StanCOG’s regional expressway system as a future six lane facility from Hatch to SR 132.
With this in mind, StanCOG requests the draft initial study and associated CFD be revised to include the regional roadway network impacted by this proposal and the project to pay its "fair share" to the county's CFF program based upon the project's contribution to the regional facilities.

Should you have any questions or comments pertaining to StanCOG's requests, please feel free to contact my staff at (209) 558-4847 or e-mail Mike Higgins at mhiggins@stancog.org.

Sincerely,

Laurie Barton
Deputy Director

Cc: Raul Mendez
Senior management Consultant
Chief Executive Office
1010 10th Street, Suite 6800
Modesto, CA 95354

David Cooper
Transportation Planning
Caltrans, District 10
P.O. Box 2048
Stockton, CA 95201
RESPONSE TO LETTER “I”, RECEIVED NOVEMBER 5, 2003
Stanislaus Council of Governments

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter provided 3 instances of comments on the document regarding mitigation of project regional roadway impacts. Where applicable, the document has been revised to clarify the Traffic and Circulation discussion and respond to the comments as outlined below:

I 1. The Draft Initial Study/Mitigated Negative Declaration compares the impacts of the proposed project to that analyzed by the General Plan Master EIR traffic analysis – note that each numbered section of the Initial Study/Mitigated Negative Declaration begins with the statement: “Compared to the Master EIR certified for the Modesto Urban Area General Plan,... will the project result in increased impacts to...” Pursuant to CEQA section 21157.1 it was meant to indicate that there will be no new additional impacts that were not already identified by that previous analysis. **It does not mean that there will be no impacts.** Mitigation measures for those previously identified traffic impacts include regional roadway improvements that will be funded **in large part** by the City’s CFF Program. No new issue raised, no revisions to the document are needed.

I 2. The City’s CFF Program includes collection of developer impact fees that include $2.3 million of an estimated total cost of $2.9 million for the Carpenter/Whitmore intersection. The CFF program provides $9.6 million of the total estimated $10.2 million cost of improvements, including $5.0 million for the widening of the Carpenter Rd. bridge. Also, there are funds to widen Carpenter Road to expressway standards all the way north to Highway 132 and beyond. Between Tuolumne River to Highway 132 there is $42.4 million included in the CFF program for this widening. No new issue raised, no revisions to the document are needed.

I 3. The City of Modesto CFF Program provides a mechanism that requires development in the developing City portion of the General Plan Area, including the Fairview Village CFD No. 2003-1 area, to pay their fair share of improvements including a portion of the regional roadway system costs. Funds are collected for the County’s Public Facilities Fee (PFF) program within the City’s Sphere of Influence as permits are issued for development through an existing arrangement with Stanislaus County. Stanislaus County has determined what the “fair share” amount is for the various types of land uses covered by that PFF Program. No new issue raised, no revisions to the document are needed.
October 30, 2003

Brad Kilger – City of Modesto
C&ED/Planning Division
Tenth Street Place/Third Floor
P.O. Box 642
Modesto, CA 95353-0642

Regarding: Draft Mitigated Negative Declaration for the Fairview Village Community Facilities District No. 2003-01

Thank you for allowing the District to comment on this referral received on 10/15/03 with a due date of 11/12/03. In order to reply in a timely manner, please provide a minimum of 10 working days review period. If you have any questions, please contact me at 526-7433. Below are our recommendations for this project.

ELECTRICAL

• The proposed project is outside the Modesto Irrigation District’s electric service area. This project does not impact the District’s distribution facilities or the District’s 69kV or 230kV transmission facilities. Therefore the Electrical Division has no requirements on this project at this time.

IRRIGATION

• This project is located outside MID service area. This project needs to be reviewed by Turlock Irrigation District.

DOMESTIC WATER

• No comments at this time

Date

Celia Aceves
Risk and Property Analyst
RESPONSE TO LETTER "J", RECEIVED NOVEMBER 3, 2003
Modesto Irrigation District

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter indicated the project site is outside the district's service area and provided no instances for comments on the document regarding mitigation of project Utilities impacts. Therefore, there were no revisions to the document resulting from these comments. No changes are necessary. No new environmental issues were raised by these comments.
October 21, 2003

TO:        Patrick Kelly, Principal Planner
FROM:      Fran Sutton-Berardi, Executive Officer
SUBJECT:   DRAFT MITIGATED NEGATIVE DECLARATION FOR THE FAIRVIEW VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2003-01

I have reviewed the above proposal and have no comments on the proposed Mitigated Negative Declaration for the formation of the financing district for the Fairview Village Specific Plan Area.
RESPONSE TO LETTER "K", RECEIVED OCTOBER 21, 2003
Local Agency Formation Commission

Proposed Changes in the Negative Declaration Resulting from this Letter

The letter indicated no comments on the document regarding mitigation of project impacts. No changes are necessary. No new environmental issues were raised by these comments.
Based on substantial evidence provided in the Initial Study, the City of Modesto finds:

- This Initial Study, prepared pursuant to CEQA Section 21157.1, has identified an additional significant environmental effect that was not analyzed in the Master EIR. This additional significant effect is potential impacts to Water Supply, Water Quality and Hazardous Materials.

Feasible mitigation measures will be incorporated to revise the subsequent project before the Negative Declaration and Initial Study is released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effects on the environment will occur.

The City’s Engineering and Transportation Department and Operations and Maintenance have reviewed the proposed infrastructure contained in Fairview Village CFD No. 2003-1, specifically, water supply, water well, water quality, hazardous materials impacts and have determined the following mitigation measures will address the identified impacts and reduce impacts to the level required by the applicable standards:

1. **New Impact Identified by Initial Study/Mitigated Negative Declaration for Water Supplies**

   **MITIGATION MEASURE – WATER SUPPLY**
   The following new project-specific mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant Impact with Mitigation Incorporated any potential impacts for effects to Water Supplies.

   The project requires the installation of a 500,000 gallon storage tank.

2. **New Impact Identified by Initial Study/Mitigated Negative Declaration for Water Quality**

   **MITIGATION MEASURE – WATER QUALITY – 1**: The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Nitrates:


   Each of these various methods of treatment have been shown to reduce nitrate in water to levels below that of the MCL. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.
The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Uranium:

Potential treatment measures include: (1) Ion Exchange and (2) Blending with water of lower gross alpha levels – or the functional equivalent.

Either or both of these methods of treatment will be applied to reduce gross alpha in water to levels below that of the MCL.

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Arsenic:

Potential treatment measures include: (1) Ion Exchange, (2) Reverse Osmosis, (3) Electrolysis/Electrolysis Reversal, (4) Activated Alumina, Adsorption (5) Dual Water Supply and Blending, (6) Adsorption onto granular ferric hydroxide media(7) Adsorption onto granular ferric oxide media, (8) Oxidation and filtration using anthracite coal and or Greensand media and (9) Zirconium media adsorption/filtration. Each of these various methods of treatment have been shown to reduce arsenic in water to levels below that of the MCL and new technologies for Arsenic treatment are still emerging. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Silvex and 2,4-DB

Potential treatment measures include: (1) Coagulation, Flocculation and Filtration, (2) Granular Activated Carbon Adsorption, (3). Powdered activated carbon adsorption.

Each of these various methods of treatment have been shown to reduce organic compounds in water to levels below that of the MCL. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Manganese 5

Potential treatment measures include: (1). Oxidation and filtration., (2) Reverse Osmosis (3) Greensand Filtration.

Each of these various methods of treatment have been shown to reduce Manganese in water to levels below that of the secondary standard. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.
MITIGATION MEASURE – WATER QUALITY – 6
The following project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of less than Significant with Mitigation Incorporated any potential for effects from runoff water:


3. New Impact Identified by Initial Study/Mitigated Negative Declaration for Hazardous Materials

Potential exposure of public to toxic materials from well-head treatment processes

MITIGATION MEASURE – HAZARDOUS MATERIALS:
The following new project specific Hazardous Materials mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Hazardous Materials:

1. All chemicals storage tanks will have a secondary containment facility capable of holding the entire volume of the material stored in the tank in the event of a rupture to prevent accidental release.
2. All brine tanks will have a secondary containment facility capable of storing all of the brine in the event of tank failure.
3. All chemical storage tanks will be surrounded by a locked fence to prevent vandalism.
4. All ion exchange resin tanks will be housed in locked mobile containers capable of containing leaks and preventing damage due to climate or vandalism.
5. The brine delivery and disposal will be accomplished using locked boxes equipped with chemical cam lock off loading stations so trucks do not need to enter the well treatment area to load and unload materials.
6. The wellhead treatment site will be fully enclosed by a wall or fence and will remain locked at all times. The facilities will be inspected regularly.
7. Signs will be posted warning emergency responders of the hazards associated with high voltage electricity and NIOSH warnings regarding the chemicals which may be stored on site.
8. The removal of manganese sludge will be performed by certified divers according to AWWA standards.
Previously Identified Impacts and Mitigation identified in General Plan Master EIR and Focused EIR for the Fairview Village Specific Plan:

The following impacts were identified in the General Plan Master EIR and Focused EIR for the Fairview Village Specific Plan that are applicable to the construction of the facilities proposed to be financed by the Fairview Village CFD No. 2003-1:

**Air Quality:**
Construction-related impacts

**Noise**
Construction-related impacts

**Loss of Sensitive Wildlife and Habitat:**
Potential for special status species on-site, requires site survey prior to construction

**Archaeological and Historic Resources:**
Resources unearthed during Construction would require mitigation

**Previously Identified Mitigation Measures Applied to Project:**

Mitigation measures are hereby applied to the Fairview Village CFD No. 2003-1 project from the General Plan Master EIR and Fairview Village Specific Plan Focused EIR to reduced the impacts to an acceptable level: the full text of these measures are contained in the attached Mitigation Monitoring Program, Exhibit F.

There is no substantial evidence in light of the whole record before the public agency that the projects, as revised, may have a significant effect on the environment (CEQA Section 21064.5(2)).

Based on the above-referenced Initial Study and feasible mitigation measures incorporated to revise the proposed project in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, staff finds that a Mitigated Negative Declaration should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed Fairview Village CFD No. 2003-1.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described above have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

I further find that the cumulative impacts of this project are consistent with those set forth in the Master EIR for the Modesto Urban Area General Plan. This project proposes creation of a financing mechanism for the construction of infrastructure to serve a Specific Plan area and specifically for the construction of specific infrastructure to serve the Galas Brothers approved Vesting Tentative Subdivision map, for uses generally consistent with that analyzed in the General Plan Master EIR and set forth in the Modesto Urban Area General Plan. Based on the implementation of the "Fairview Village CFD 2003-1" prepared for adoption prior to the recordation of the Final subdivision map, the City’s Engineering and Transportation Department and Operations and Maintenance has determined that the impacts from this project with mitigation applied will achieve the level of service consistent with the Modesto Urban Area...
General Plan and Master EIR. As such, this project would generate no additional cumulative impacts that were not previously addressed in the Master EIR. All appropriate mitigation measures from the Master EIR have been incorporated into the project, and no further evaluation of cumulative impacts is required as this project generates no significant cumulative impact.

☐ As required by CEQA Section 21081.6 et seq., a mitigation monitoring program (Exhibit "E") will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6(b)).

Signature: Brad Kilger
Community and Economic Development Department Director
City of Modesto
Date: 12/2/03

Applicants Concurrence

In accordance with Section 15070 (b) (1) of the CEQA Guidelines, we hereby consent to the incorporation of the above Mitigation Measures which are also contained in Exhibit B of the Fairview Village CFD No. 2003-1 project.

Signature: Glen Lewis
Engineering and Transportation Department Director
City of Modesto
Date: 12/2/03

Signature: Judih Ray
Operation and Maintenance Department Director
City of Modesto
Date: 12-2-03

Signature: James Niskanen
Parks Recreation and Neighborhoods Department Director
City of Modesto
Date: 12-2-03

Mitigated Negative Declaration
Fairview Village CFD 2003-1
December 2003

EA/C&ED No. 2003-86

62
EXHIBIT " A "

Project Location Map
EXHIBIT “B”

Galas Brothers Subdivision Map
Units 1 & 2
EXHIBIT "C"

Fairview Village CFD No. 2003-1

Partially Funded Infrastructure
### FAIRVIEW VILLAGE CFD

#### Funding Source(s)

<table>
<thead>
<tr>
<th>WATER SYSTEM</th>
<th>CAPITAL</th>
<th>MAINTENANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Well</td>
<td>(1) CFD &amp; Water Zone 3.</td>
<td>CFD and rate base.</td>
</tr>
<tr>
<td>Distribution Pipe Lines</td>
<td>(1) CFD &amp; Water Zone 3.</td>
<td>CFD and rate base.</td>
</tr>
<tr>
<td>Well-head Treatment</td>
<td>CFD</td>
<td>CFD and rate base.</td>
</tr>
<tr>
<td>Surface water pipe line</td>
<td>CFD</td>
<td>CFD and rate base.</td>
</tr>
<tr>
<td>Water tank and booster pumps</td>
<td>CFD</td>
<td>CFD and rate base.</td>
</tr>
</tbody>
</table>

| WASTEWATER SYSTEM             | CFD and rate base.            | CFD and rate base.               |
| Lift Station                  | CFD                           | CFD and rate base.               |
| Force Main                    | CFD                           | CFD and rate base.               |

| STORM DRAIN SYSTEM            | CFD and rate base.            | CFD and rate base.               |
| Lift Station                  | CFD                           | CFD and rate base.               |
| Force Main to Basin           | CFD                           | CFD and rate base.               |
| Gravity Line to Outfall Line  | CFD                           | CFD and rate base.               |

| PORTION OF CENTRAL NEIGHBORHOOD PARK | CFD, developer contribution (no CFD funds) | CFD |
| Park/Basin, bike path and lighting | CFD, developer contribution (no CFD funds) | CFD |

| LANDSCAPING/MEYDIAN ALONG CARPENTER ROAD | CFD, developer contribution (no CFD funds) | CFD |
| Parkways | (No CFD funds) | CFD |

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EXHIBIT "D"

Community Facilities District Boundary Map
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

PROPOSED BOUNDARIES OF CFD DISTRICT NO. 2003-1
CITY OF MODESTO, COUNTY OF STANISLAUS
STATE OF CALIFORNIA
SCALE 1"=200'

THOMPSON-HYSSELL ENGINEERS
A DIVISION OF KEITH COMPANIES
1016 12TH STREET
MODESTO, CALIFORNIA
MARCH, 2003

LEGEND:
BOUNDARY OF PROPOSED CFD DISTRICT EXCLUDES DISTRICT
APN COUNTY OF STANISLAUS ASSESSOR'S PARCEL NUMBER
GRID NETWORK
3'/100' TO SCALE
STANISLAUS COUNTY READER

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO
IN RECONCILIATION FROM THE _____ DAY OF ______

APN 66-18-04-01-
68.09 ACRES

APN 66-18-04-02-
68.09 ACRES

APN 66-18-04-03-
68.09 ACRES

APN 66-18-04-04-
68.09 ACRES

APN 66-18-04-05-
68.09 ACRES

GOURDS
LITTLE LANE
BELL

GENERAL NOTES:
1) NOTE TO COUNTY OF STANISLAUS ASSESSOR'S MAPS AS INDICATED
   FOR THE LINES AND DIMENSIONS OF THE PARCELS.
2) FOR SPECIFIC BOUNDARY INFORMATION, NOTE TO THE SPECIFIED
   RECORDED MAP AS FOLLOWS:
   a) "STANISLAUS" BOOK 106 AT PAGE 1089
   b) BOOK 107 AT PARCEL 4 PAGE 200
   c) BOOK 102 OF PARCELS VOLS AT PAGE 2 (1999)

I HEREBY CERTIFY THAT THE MAP WAS APPROVED BY THE CITY COUNCIL
OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF, HELD ON THE
_____ DAY OF ______, 2003 BY ITS RESOLUTION NO.

APN 66-18-04-01
APN 66-18-04-02
APN 66-18-04-03
APN 66-18-04-04
APN 66-18-04-05

FILED THIS _____ DAY OF ______ 2003, AT THE HOUR OF _____ A.M.
IN BOOK ___ OF MAPS AND ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS
AT PAGE _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

LEE ANDERSON
COUNTY RECORDER OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA
EXHIBIT "E"

Galas Brothers Subdivision

and

Future Annexation Area
EXHIBIT F

Mitigation Monitoring Plan
MITIGATION MONITORING AND REPORTING PROGRAM FOR
FAIRVIEW VILLAGE CFD 2003-1
(Pursuant to Mitigated Negative Declaration EA C&ED No. 2003-86)

1.0 INTRODUCTION

This mitigation and monitoring program has been prepared by the City of Modesto for the Fairview Village CFD No. 2003-1. Public Resources Code (CEQA) Section 21081.6 requires public agencies to adopt a mitigation reporting or monitoring program when adopting a Mitigated Negative Declaration. Monitoring programs are designed to ensure that all mitigation measures described in the Negative Declaration are carried out.

This program includes new or additional mitigation measures that were identified by the analysis contained in this Initial Study/Mitigated Negative Declaration for impacts to: Water Supplies, Water Quality and Hazardous Materials. The program also includes mitigation measures that were previously identified by the analysis contained in the General Plan Master EIR, and Fairview Village Focused EIR for impacts to: Air Quality, Noise, Sensitive Wildlife and Plant Habitat, and Archaeology and Historic Resources. These measures are listed below.

2.0 SCOPE

The program described below applies to all mitigation measures described in the Draft Initial Study/proposed Mitigated Negative Declaration, dated October 10, 2003, prepared for the project. The components of project mitigation were reviewed and approved by the City of Modesto’s Recreation and Neighborhoods, Engineering and Transportation and Operations and Maintenance staff and are contained in the document titled “Fairview Village CFD No. 2003-1” that will be adopted by the City Council.

3.0 MITIGATION MEASURES

AIR QUALITY:

“a. All applicable sections of SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10 (Rules 8011 through 8081) shall be applied to the project including Rule 8021 Section 6.3 Dust Control Plan. In addition, the following controls are required to be implemented at all construction sites:”

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

2. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
3. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

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

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

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

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

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

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

b. Enhanced Control Measures. The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

1. Limit traffic speeds on unpaved roads to 15 mph; and

2. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

"Pursuant to San Joaquin Valley Air Pollution District Rule 4103, agricultural material may not be burned if the land use is converting from agricultural to non-agricultural purposes."

NOISE:

Modesto Noise Ordinance. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
1. A hammer, or any other device or implement used to pound or strike an object.

2. An impact wrench, or other tool or equipment powered by compressed air.

3. A hand-powered saw.

4. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

5. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

6. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

7. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

All development projects located within the Baseline Developed Area (and Redevelopment Area) are required to incorporate the General Plan policies listed below into the project.

Policy VII-G.3[a] The City of Modesto shall require noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following:

1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

2. Other proposed uses: the noise/land use compatibility guidelines (i.e., those noise levels which are "conditionally acceptable," "normally Unacceptable," or "clearly unacceptable," ) shown in Table 1 and the most recent noise contours for the City shown in Figure VII-1 [of the City’s Urban Area General Plan].
INCREASED DEMAND FOR WATER SUPPLIES:

The following new project-specific mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than significant impact with mitigation incorporated any potential impacts for effects to Water Supplies.

The project requires the installation of a 500,000 gallon storage tank. Measures to mitigate water quality are outlined in Section IX – Drainage, Flooding and Water Quality.

LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT:

Policy VII-E.3[a] For all lands within the Planned Urbanizing Area, site specific surveys shall be conducted by a qualified biologist to determine whether any sensitive natural communities or species are present within the proposed development area. These studies shall particularly focus on proposed development within any lands included within a potential biological resource study area as delineated on Figure 7-1 in the Final Master EIR. (Riparian Corridor Diagram)

Surveys should be conducted at the appropriate season to best determine the likelihood of occurrence and should employ accepted methodologies as determined by DFG and USFWS. The significant results of such surveys should be recorded onto the City’s existing biological resources map for future planning purposes.

Policy VII-E.3[b] All habitat found to contain or potentially contain sensitive species shall be avoided and preserved unless doing so would create, isolate and/or fragment habitat that would not function adequately as judged by a qualified biologist and/or that the proposed development layout would be so constrained as to make the development financially infeasible; avoided habitat areas shall also be protected by fencing, signage and/or establishment of buffer zones as appropriate to the species or habitat involved. Generally, a minimum 100-foot buffer of undeveloped land would be necessary. The protected habitat shall contribute to the long-term conservation of the species and ecosystems on which they depend.

Policy VII-E.3[c] Where formally listed species are determined present, consultation shall be carried out with the DFG and/or USFWS in accordance with the California and/or federal Endangered Species Acts. Where candidate or other special status category of species are involved, informal consultation with these agencies is recommended. The recommendations of these agencies shall be incorporated into the development plan, unless overriding considerations can be demonstrated.

ARCHAEOLOGY AND HISTORIC:

In the event of discovery or recognition of any human remains during excavation or construction, Appendix K requires that there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

The coroner the County in which the remains are discovered has been informed and has determined that no investigation of the cause of death is required, and
If remains are of Native American origin,

The descendants from the deceased Native Americans have made a recommendation to the landowners or the person responsible for the excavation work, for means of retreating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or

The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.

Further, where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

The Native American Heritage Commission is unable to identify a descendant;

The descendant identified fails to make a recommendation; or

The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

If the human remains are discovered before the City has finished the CEQA process, the City shall work with the Native American Heritage Commission and the applicant to develop an agreement for treating or disposing, with appropriate dignity, of the human remains and any associated grave goods. Action implementing such an agreement is expect from:

The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (health and Safety Code Section 7050.5).

The requirements of CEQA and the Coastal Act.

WATER QUALITY:

When construction of a water well facility is proposed, the following language shall be included in the subdivision improvement plans document:

MITIGATION MEASURE - WATER QUALITY - 1 :

The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Nitrates:

Potential treatment measures include:
Each of these various methods of treatment have been shown to reduce nitrate in water to acceptable levels. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 2:
The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Uranium:

Potential treatment measures include: (1) Ion Exchange and (2) Blending with water of lower gross alpha level – or the functional equivalent.

Either or both of these methods of treatment will be applied to reduce gross alpha in water to levels below that of the MCL.

MITIGATION MEASURE – WATER QUALITY – 3:
The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Arsenic:

Potential Mitigation Measure:

Each of these various methods of treatment have been shown to reduce arsenic in water to levels below that of the MCL and new technologies for Arsenic treatment are still emerging. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 4:
The following new project-specific water quality mitigation measure will be incorporated into the Fairview Village CFD No. 2003-1 project to reduce to a level of Less than Significant with Mitigation Incorporated any potential for effects to Water Quality for Silvex and 2,4-DB:

Potential Mitigation Measure:
Potential treatment measures include: (1) Coagulation, Flocculation and Filtration, (2) Granular Activated Carbon Adsorption, (3). Powdered activated carbon adsorption.

Each of these various methods of treatment have been shown to reduce organic compounds in water to levels below that of the MCL. Prior to construction, a study shall
be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURES – WATER QUALITY – 5:
Potential treatment measures include: (1). Oxidation and filtration,, (2) Reverse Osmosis (3) Greensand Filtration.

Each of these various methods of treatment have been shown to reduce Manganese in water to levels below that of the secondary standard. Prior to construction, a study shall be prepared to determine the appropriate type/method of treatment. All work shall be conducted by a registered water treatment engineer.

MITIGATION MEASURE – WATER QUALITY – 6:

Implementation for all Water Quality Mitigation Measures:

When the development of water well facilities is proposed, the City shall assure implementation of these mitigation measures at a level and timing consistent with the Mitigated Negative Declaration.

HAZARDOUS MATERIALS:
Water well wellhead treatment facilities shall incorporate the following measures:

1. All chemicals storage tanks will have a secondary containment facility capable of holding the entire volume of the material stored in the tank in the event of a rupture to prevent accidental release.
2. All brine tanks will have a secondary containment facility capable of storing all of the brine in the event of tank failure.
3. All chemical storage tanks will be surrounded by a locked fence to prevent vandalism.
4. All ion exchange resin tanks will be housed in locked mobile containers capable of containing leaks and preventing damage due to climate or vandalism.
5. The brine delivery and disposal will be accomplished using locked boxes equipped with chemical cam lock off loading stations so trucks do not need to enter the well treatment area to load and unload materials.
6. The wellhead treatment site will be fully enclosed by a wall or fence and will remain locked at all times. The facilities will be inspected regularly.
7. Signs will be posted warning emergency responders of the hazards associated with high voltage electricity and NIOSH warnings regarding the chemicals which may be stored on site.
8. The removal of manganese sludge will be performed by certified divers according to AWWA standards.

Responsible Agency for all Fairview Village CFD No. 2003-1 Mitigation Measures:
City of Modesto, Parks, Recreation and Neighborhoods
City of Modesto, Operations and Maintenance Department
City of Modesto, Engineering and Transportation Department
Responsible Agency for all General Plan MEIR Mitigation Measures:
City of Modesto Community and Economic Development Department

Implementation for all General Plan MEIR Mitigation Measures:
At the appropriate time in the process, generally at the Subdivision Improvements Plan, the City shall verify compliance with these measures.
EXHIBIT "H"

List of Recipients
List of Recipients

George Day – Central Valley Regional Water Quality Control Board
Dan Applebee – Department of Fish & Game / Environmental Services
Joe Spanos – Division of Drinking Water & Environmental Management
Nadell Gayou, Chief – Department of Water Resources
Terry Roberts – Governor’s Office of Planning and Research
Greg Frantz – State Water Board / Division Water Quality
Central California Information Center - Turlock Cal State University Stanislaus Department
Northern Region Environmental Planner – San Joaquin Valley Unified Air Pollution Control District
Gary Dickson, Executive Director – STANCOG
Randy Hatch, Planning Director – City of Ceres
Director, Stanislaus County Department of Environmental Resources – Environmental Health Division
Director, Stanislaus County Department of Environmental Resources – Department of Parks
Environmental Resources Department Stanislaus County
Fran Sutton Berardi – LAFCO Stanislaus County
Reference Department – Stanislaus County Library
Richard Jantz – Stanislaus County / Environmental RVW Committee / Stanislaus Co. CAO.
Keith C. Munroe – STANCO Department of Environmental Resources
Ron Freitas, Director - Stanislaus County Planning & Community Development Department
George Stillman, Director – Stanislaus County Department of Public Works
Librarian – Stanislaus County Library Reference Department
Dr. Pamela Fisher – YCCD
Glen Lewis – E&T / Administration
Becky Meredith, Director – Modesto City Schools
Cable One
Allen Short, General Manager – Modesto Irrigation District
Sterling M. Fountain – Modesto Irrigation District
Pacific Bell Telephone Company
Manager – PG & E
Chris Kiriakou – Power Resource Department, Turlock Irrigation District
Paul Elias – Turlock Irrigation District
Brad Kilger – C & ED Director
Patrick Kelly – C & ED Principal Planner
Roy Wasden – Chief of Police
Alison Baratt-Green – City Attorney’s Office
Vicky Dion – City Attorney’s Office
George Britton – City Manager
Craig Scott – E & T
Will Wong – E & T
Firoz Vohra – E & T / Administration
Jack Bond – E & T Engineering
Jim Miguel – Fire Chief
Peter Cowles – O & M
Robert Howard – O & M
Blair Bradley – O & M / Hazardous Materials Specialist
Doug Critchfield – PR & N
James Niskanen – R & N
Steve Nish
George Osner
A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY FACILITIES NO. 2003-1 (FAIRVIEW VILLAGE), AUTHORIZING THE LEVY OF SPECIAL TAXES THEREIN AND ESTABLISHING AN ANNUAL APPROPRIATIONS LIMIT

WHEREAS, on October 28, 2003, pursuant to a petition filed by Del Valle Corporation, Inc. (the “Petitioner”) this City Council adopted a resolution (the “Resolution of Intention”) stating its intention to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”); and

WHEREAS, a copy of the Resolution of Intention, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on October 28, 2003, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed $25,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed on Appendix A to the Resolution of Intention, and all appurtenances and appurtenant work associated with the foregoing (collectively the “Facilities”) and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and
Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the “Incidental Expenses”); all as more fully described in said resolution; and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed $25,000,000; and

WHEREAS, there has been filed with the City Clerk a report containing a description of the facilities and services necessary to meet the needs of the Community Facilities District and an estimate of the cost of such facilities as required by Section 53321.5 of the Government Code (the “Report”); and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special taxes to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the proposed special taxes to be levied within the Community
Facilities District was not precluded by a majority protest of the type described in Government Code Section 53324, and the City Council is sufficiently advised as to all matters relating to the formation of the Community Facilities District, the levy of the special taxes and the issuance of bonded indebtedness; and

WHEREAS, there have been fewer than twelve registered voters residing in the proposed boundaries of the Community Facilities District for the statutory period, and the qualified electors in the Community Facilities District are the landowners within the Community Facilities District; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and to call an election therein to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of special tax, as set forth in Attachment A hereto, (ii) the issuance of bonds to pay for the Facilities and the Incidental Expenses, and (iii) the establishment of an appropriations limit for the Community Facilities District;

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

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district designated “City of Modesto Community Facilities District No. 2003-1 (Fairview Village)” is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District

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were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. The boundaries of the Community Facilities District are established as shown on the map designated “Boundary Map of Proposed City of Modesto Community Facilities District No. 2003-1 (Fairview Village),” which map is on file in the office of the City Clerk and, pursuant to Sections 3111 and 3113 of the Streets and Highways Code, was recorded in the Book of Maps of Assessment and Community Facilities Districts in the Office of the County Recorder of Stanislaus County in Book No. 3, at Page 83, as Instrument No. 03-0190347-00.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the “Facilities” in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the “Services”).

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in Attachment A hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, (iii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iv) the other Incidental Expenses, including the costs of forming the Community Facilities District and administering the
levy and collection of the special tax and all other administrative costs of the special tax levy and bond issues. The City expects to incur, and in certain cases has already incurred, incidental expenses in connection with the creation of the Community Facilities District, the issuance of bonds, the levying and collecting of the special taxes, the provision of the Services, the completion and inspection of the Facilities and the annual administration of the bonds and the Community Facilities District. The rate and method of apportionment of special tax is described in detail on Attachment A hereto and incorporated herein by this reference, and the City Council hereby finds that Attachment A contains sufficient detail to allow each landowner within the Community Facilities District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Report, which is incorporated by reference herein, the special taxes are based generally on area of each parcel of real property within the Community Facilities District (except to the extent that certain single family detached lots may be taxed at the same rate regardless of land area) and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor’s parcel for a period not to extend beyond fiscal year 2050-51, and the Resolution of Intention is hereby amended to change the reference therein to the “2044-2045 tax year” to “fiscal year 2050-51.” The special taxes are apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act, and such special taxes are not on or based upon the ownership of real property. Under no circumstances shall the special taxes against any parcel used for private residential purposes be increased by more than 10% as a consequence of delinquency or default by the owner of any other parcel or parcels within the Communities Facilities District.
The City’s District Administrator, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor’s parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in Attachment A, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt in order to yield the required debt service payments on any outstanding bonds of the Community Facilities District or to prevent the Community Facilities District from defaulting on any of its other obligations or liabilities. The amount of the special taxes will be set in accordance with the rate and method of apportionment of special tax attached hereto as Attachment A.

SECTION 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all non-exempt real property in the Community Facilities District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District ceases.
SECTION 8. It is hereby further determined that there will be no ad valorem property tax levied on property within the Community Facilities District for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District as are proposed to be provided by the Facilities to be financed by the Community Facilities District.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, the Petitioner and other private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by it in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City, with or without interest.

SECTION 10. Written protests against the establishment of the Community Facilities District have not been filed by one-half or more registered voters within the boundaries of the Community Facilities District or by the property owners of one-half (1/2) or more of the area of land within the Community Facilities District. The City Council hereby finds that the proposed special taxes have not been precluded by a majority protest pursuant to Section 53324 of the Act.
SECTION 11. The annual appropriations limit (as defined in Section 8(h) of Article XIII B of the California Constitution) of the Community Facilities District is hereby established at $25,000,000.

SECTION 12. An election is hereby called for the Community Facilities District on the propositions of levying the special taxes on the property within the Community Facilities District and establishing the appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to Section 53351 of the Act. The language of the proposition to be placed on the ballot is attached hereto as Attachment B.

SECTION 13. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be December 11, 2003. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

The City Council having found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above, pursuant to Section 53326 of the Government Code each landowner who is the owner of record on
the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

SECTION 14. The preparation of the Report is hereby ratified. The Report, as submitted, is hereby approved and is made a part of the record of the public hearing regarding the formation of the Community Facilities District, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

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

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: O’Bryant

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
ATTACHMENT A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein “CFD No. 2003-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

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

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

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

“Annual Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.
“Annual Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds, (ii) to create or replenish reserve funds, (iii) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

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

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

“County” means the County of Stanislaus.

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

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year

- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

“Development Plan” means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

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

“Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

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

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

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

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

“One-Time Facilities Special Tax” means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

“One-Time Facilities Special Tax Requirement” means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

“Original Parcel” means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

“Other Property” means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.
“Proportionately” means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

“Public Property” means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Single Family Attached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

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

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

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

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

“Successor Parcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

“Tax Zone” means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.
“Tax Zone #1” means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

“Unit” means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor’s Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor’s Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor’s Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

C. CALCULATING THE MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

1. Original Parcels

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.
2. **Successor Parcels**

   a. **All Successor Parcels are Single Family Detached Lots**

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

      **Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

      **Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

   b. **No Successor Parcels are Single Family Detached Lots**

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

      **Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

      **Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

      **Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;

      **Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

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

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

      If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

      **Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

      **Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
Step 3: Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;

Step 4: Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;

Step 5: Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;

Step 6: Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;

Step 7: Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

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

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

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

2. Annual Facilities Special Tax

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

3. Annual Maintenance Special Tax

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco
E. **METHOD OF LEVY OF THE SPECIAL TAX**

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

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

2. **Annual Facilities Special Tax**

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

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

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

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

3. **Annual Maintenance Special Tax**

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

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

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

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

E. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

G. EXEMPTIONS

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

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

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

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

“Public Facilities Requirements” means either $3.8 million in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

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

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

\[
\text{Bond Redemption Amount} + \text{Remaining Facilities Amount} + \text{Redemption Premium} + \text{Defeasance Requirement} + \text{Administrative Fees and Expenses} - \text{Reserve Fund Credit} = \text{Prepayment Amount}
\]
As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

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

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

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

**Step 4.** Compute the current Remaining Facilities Costs (if any).

**Step 5.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the “Remaining Facilities Amount”).

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

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

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

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

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

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

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

I. **INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.
ATTACHMENT 1

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES

[Diagram showing Tax Zone #1 with boundaries and property numbers]

Tax Zone #1
056-027-002
ATTACHMENT 2

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN EACH TAX ZONE

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1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.

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

3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.
MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of $25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of $25,000,000?

YES______

NO______
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-661

A RESOLUTION DETERMINING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

WHEREAS, on October 28, 2003, pursuant to a petition filed by Del Valle Corporation, Inc., this City Council adopted a resolution stating its intention to form the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”); and

WHEREAS, a copy of said resolution, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on October 28, 2003, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed $25,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating certain storm drain system, water system, sewer system improvements, and bike trail improvements and all appurtenances and appurtenant work in connection with the foregoing (collectively, the “Facilities”) and (ii) the incidental expenses incurred and to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds and the establishment and replenishment of bond reserve and special
reserve funds (the "Incidental Expenses"), all as more fully described in said resolution; and

WHEREAS, notice was published as required by law relative to the intention of the City Council to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed $25,000,000 within the boundaries of the Community Facilities District; and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special tax to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, the City Council desires to make the necessary findings to incur bonded indebtedness within the Community Facilities District, to declare the purpose for such indebtedness, and to authorize the submittal of a combined ballot proposition to the qualified electors of the Community Facilities District, being the land owners within the Community Facilities District, all as authorized and required by law;
NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. In order to finance the Facilities and Incidental Expenses, it is necessary to incur bonded indebtedness in a maximum aggregate principal amount not to exceed $25,000,000 within the Community Facilities District.

SECTION 3. The aforesaid bonded indebtedness is to be incurred for the purpose of financing the costs of purchasing, constructing, expanding, improving or rehabilitating the Facilities and financing the Incidental Expenses.

SECTION 4. All of the property within the Community Facilities District, as established pursuant to the Resolution of Formation, with the exception of property exempted from the special tax pursuant to the provisions of the rate and method of apportionment of special tax attached to the Resolution of Formation, shall pay for the bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution of Formation.

SECTION 5. The maximum term of the bonds to be issued shall in no event exceed 40 years; and the bonds shall bear interest at rates (not in excess of the maximum rate permitted by law) determined at the time of sale thereof.

SECTION 6. An election is hereby called for the Community Facilities District on the proposition of incurring bonded indebtedness pursuant to Section 53351 of the Act
and shall be consolidated with the election on the propositions of levying the special
taxes on the property within the Community Facilities District and establishing an
appropriations limit for the Community Facilities District pursuant to Section 53325.7 of
the Act. The language of the proposition to be placed on the ballot is attached hereto as
Attachment A.

SECTION 7. The date of the election for the Community Facilities District on
the proposition of incurring the bonded indebtedness, authorizing the levy of the special
taxes and establishing the appropriations limit for the Community Facilities District shall
be December 11, 2003. The City Clerk shall conduct the election. Except as otherwise
provided by the Act, the election shall be conducted by personally delivered or mailed
ballots and in accordance with the provisions of law regulating elections of the City
insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there have been fewer than twelve persons registered to
vote within the territory of the Community Facilities District for each of the ninety days
preceding the close of the public hearing described above; and, pursuant to Section 53326
of the Government Code, each landowner who is the owner of record on the date hereof
or the authorized representative thereof shall have one vote for each acre or portion
thereof that he or she owns within the Community Facilities District.

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

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers O’Bryant

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
ATTACHMENT A

BALLOT PROPOSITION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of $25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of $25,000,000?

YES______

NO______
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-662

A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW
VILLAGE)

WHEREAS, on this date, this City Council adopted a resolution entitled “A
Resolution Establishing City of Modesto Community Facilities District No. 2003-1
(Fairview Village), Authorizing the Levy of Special Taxes Therein and Establishing an
Annual Appropriations Limit” (the “Resolution of Formation”), which established the
City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the
“Community Facilities District”), authorized the levy of special taxes therein, and
established an annual appropriations limit; and

WHEREAS, on this date, the City Council, acting as the legislative body of the
Community Facilities District, also adopted a resolution entitled “A Resolution
Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto
Community Facilities District No. 2003-1 (Fairview Village),” which declared the
necessity to incur bonded indebtedness in the maximum amount of $25,000,000; and

WHEREAS, pursuant to the provisions of said resolutions, propositions to
authorize the levy of special taxes within the Community Facilities District, to establish
an appropriations limit of the Community Facilities District and to authorize the incurring
of bonded indebtedness are to be submitted to the qualified electors of the Community
Facilities District as required by the Mello-Roos Community Facilities Act of 1982, as
amended (the “Act”);
NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. Pursuant to the Act the propositions to authorize the levy of special taxes within the Community Facilities District, establish an appropriations limit of the Community Facilities District and authorize the incurring of a bonded indebtedness shall be combined into one ballot proposition and submitted to the qualified electors of the Community Facilities District as provided herein.

SECTION 2. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by the land owners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 3. The date of the election shall be December 11, 2003, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 9:00 p.m. on December 11, 2003; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.
SECTION 4. The form of the ballot for the election is attached hereto as Exhibit A and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

SECTION 5. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 9:00 p.m. on December 11, 2003 whether said ballots shall be personally delivered or received by mail.

SECTION 6. There is on file with the City Clerk a written instrument executed by the sole qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.
The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11th of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: O’Bryant

ATTEST: ____________________________

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By ____________________________

MICHAEL D. MILICH, City Attorney
EXHIBIT A

OFFICIAL BALLOT

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

December 11, 2003

SPECIAL ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on December 11, 2003, either by mail or in person. The City Clerk’s offices are located at 1010 Tenth Street, Modesto, California 95353.

INSTRUCTIONS TO VOTERS:

To vote on the measure, make a “+”, “3”, “x” or other distinguishing mark on the line after the word “Yes” or on the line after the word “No.” If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”) incur an indebtedness and issue bonds in the maximum aggregate principal amount of $25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the “Resolution of Formation”), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of $25,000,000?

YES _____

NO _____
By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

[NAME]

By ____________________________

Number of Votes: ___
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-663

A RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on December 11, 2003 for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the “Proposition”) for (a) the authorization of bonds in a principal amount not to exceed $25,000,000, (b) the levy of special taxes in accordance with the rate and method of apportionment of special tax set forth in the resolution forming the Community Facilities District and (c) the establishment of an appropriations limit for the Community Facilities District; and

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is attached hereto as Attachment "A";

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:
SECTION 1. The above recitals are true and correct.

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on December 11, 2003 on the Proposition were cast in favor of the Proposition, and the Proposition carried. The City Council, acting as the legislative body of the Community Facilities District, is hereby authorized to issue, from time to time as it determines appropriate, bonds for the benefit of the Community Facilities District for the purposes set forth in the Proposition and to take the necessary steps to levy the special taxes authorized by the Proposition.

SECTION 3. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County a notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.
The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11th of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: O’Bryant

ATTEST: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
ATTACHMENT “A”

CERTIFICATE OF CITY CLERK
AS TO RESULTS OF THE CANVAS OF ELECTION RETURNS

STATE OF CALIFORNIA )
 ) ss.
COUNTY OF STANISLAUS )

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”). With my concurrence, the election was conducted on December 11, 2003. On or prior to said date I had mailed or personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to December 11, 2003 or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: 82
NO: 0

TOTAL NUMBER OF VOTES CAST: 82

Dated this 11th day of December, 2003.

Jean Zahr,
City Clerk of the City of Modesto
MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 664

A RESOLUTION APPROVING A TEN-YEAR WATER SERVICES AGREEMENT BETWEEN THE CITY OF MODESTO AND BASIN WATER FOR SERVICES AND LEASE OF EQUIPMENT RELATED TO THE REMOVAL OF NITRATES AT WELL SITES WITHIN THE GRAYSON COMMUNITY WATER SYSTEM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Modesto is the potable water provider for the community of Grayson, and

WHEREAS, there are only two wells sites serving this community and both require nitrate treatment to meet water quality standards, and

WHEREAS, the electro-dialysis treatment system currently in use has failed on a number of occasions and is considered unreliable, and

WHEREAS, the City of Modesto received a compliance order from the California Department of Health Services mandating that a new treatment system be obtained for the two wells, and

WHEREAS, an engineering contract was approved by the City Council on November 6, 2002, to evaluate treatment options, and

WHEREAS, this engineering contract is complete with a recommendation that Ion Exchange treatment be utilized, and

WHEREAS, it is the City’s obligation to provide and maintain an adequate water supply to this area for public health and safety, and

WHEREAS, City staff has arranged for a long-term Water Services Agreement with Basin Water for an Ion Exchange unit for nitrate treatment, and

WHEREAS, the Agreement terms are considered acceptable to the City,
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto it hereby approves a ten-year Water Services Agreement with Basin Water for services and lease of equipment related to the removal of nitrates at well sites within the Grayson Community Water System.

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

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

AYES: Councilmembers: Frohman, Hawn, Jackman, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, O’Bryant

ATTEST: Jean Zahr

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-665

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
CONFIRMING THE CANVASS OF THE SECOND REGULAR MUNICIPAL
ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON DECEMBER
9, 2003, AND DECLARING THE RESULTS OF SAID ELECTIONS FOR
COUNCILMEMBERS (RUN-OFF ELECTION).

WHEREAS, the Charter of the City of Modesto provides that if no candidate for
an elective office of the City receives a majority vote at a regular municipal election, a
second Regular Municipal Election shall be held at which the two candidates receiving
the highest number of votes at the first election shall have their names on the ballot for
the election to the office, and

WHEREAS, at said Regular Municipal Election on November 4, 2003 a majority
vote was not cast for Mayor to the City Council nor for Councilmember for Chair No. 1,
and

WHEREAS, the two candidates receiving the highest number of votes for Mayor,
Bev Finley and Jim Ridenour, and the two candidates receiving the highest number of
votes for Councilmember Chair No. 1, Bob Dunbar and Dave Lopez, would have their
names on the ballot for a run-off election to be held on Tuesday, December 9, 2003, and

WHEREAS, the Second Regular Municipal Election was held by mail ballot in
the City of Modesto on Tuesday, December 9, 2003, to elect a Mayor to the City Council
and a Councilmember to Chair No. 1, as mentioned above, and said election was held in
accordance with the with law and the proceedings of this Council, and the votes thereat
received and canvassed, and the returns thereof ascertained, determined and declared in
all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said Second Regular
Municipal Election in accordance with law, and certified the results of the election to the
Council by a Certificate of Canvass and Statement of Votes dated December 16, 2003, a
copy of which is hereo marked EXHIBIT “A” and made a part hereof,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
as follows:
SECTION 1. Said Canvass by the City Clerk as shown on said Certificate of
Canvass and Statement of Votes and the results of the election are hereby ratified,
confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a
copy of said Certificate of Canvass and Statement of Votes, which is attached hereto
marked as EXHIBIT “A” and made a part hereof, shows a complete tabulation of the
following:

(a) The whole number of votes cast in the city.
(b) The names of the persons voted for.
(c) The measures voted upon
(d) For what office each person was voted for.
(e) The number of votes given in the city for each person.

SECTION 3. That, at said Second Regular Municipal Election, held by mail
ballot, the following named persons having received a majority of the votes cast for the
elective offices, as designated on Exhibit “A”, are hereby declared to be duly and
regularly elected to such office; and, the City Clerk is hereby directed to issue a
Certificate of Election to each of said persons, certifying her/her election to the office
appearing after his/her name, and to administer to each of said persons the oath of office
prescribed by the Constitution and laws of the State of California, and the Charter of the
City, to wit:

Bob Dunbar  Councilmember, for a term of four years,
Chair No. 1, Modesto City Council

Jim Ridenour  Mayor, for a term of four years, Modesto
City Council
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 23rd of December, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO SECOND REGULAR MUNICIPAL ELECTION
December 9, 2003

I, Jean Zahr, City Clerk of the City of Modesto, do hereby certify that I publicly canvassed the returns of the City of Modesto Second Regular Municipal Election held on December 9, 2003. The following are the results of said election:

CANDIDATES | NUMBER OF VOTES | PERCENTAGE OF VOTE
-------------|----------------|-------------------
Mayor, Modesto City Council
  Jim Ridenour | 17,790 | 52.9%
  Bev Finley | 15,814 | 47.0%
Chair 1, Modesto City Council
  Bob Dunbar | 18,052 | 55.3%
  Dave Lopez | 14,546 | 44.6%

VOTER TURNOUT:

<table>
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<th>TOTAL REGISTERED VOTERS</th>
<th>TOTAL TURNOUT</th>
<th>TURNOUT PERCENTAGE</th>
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<tr>
<td>City of Modesto Council Seats</td>
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<td>33,836</td>
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JEAN ZAHR
City Clerk & Auditor
City of Modesto

December 23, 2003
A RESOLUTION APPROVING THE FINAL MAP OF THE GALAS BROTHERS SUBDIVISION UNIT NO. 1 SUBDIVISION OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION

WHEREAS, DEL VALLE HOMES, a California Corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 81.89 acres, known as the GALAS BROTHERS SUBDIVISION UNIT NO. 1 ("SUBDIVISION"), in the Fairview Village Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 1st day of December, 1997, 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,

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of December, 2003, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

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
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-667

A RESOLUTION APPROVING THE FINAL MAP OF THE GALAS BROTHERS
SUBDIVISION UNIT NO. 1 SUBDIVISION OF THE CITY OF MODESTO AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION
AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION

WHEREAS, DEL VALLE HOMES, a California Corporation, is possessed of a
tract of land situated in the City of Modesto, County of Stanislaus, consisting of 35.44
acres, known as the GALAS BROTHERS SUBDIVISION UNIT NO. 2
(“SUBDIVISION”), in the Fairview Village Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning
Commission of the City of Modesto on the 1st day of December, 1997, 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,

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of December, 2003, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICHI, City Attorney

By [Signature]
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney