MODESTO CITY COUNCIL
RESOLUTION NO. 2003-501

A RESOLUTION ADOPTING BUSINESS LICENSE TAX APPORTIONMENT GUIDELINES PURSUANT TO SECTION 6-1.436 OF THE MODESTO MUNICIPAL CODE.

WHEREAS, pursuant to Section 6-1.436 of the Modesto Municipal Code, the City Council is authorized to issue business license tax apportionment guidelines,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby issues the Business License Tax Apportionment Guidelines set forth in Attachment “A”. The Business License Tax Reporting Form set forth in Attachments “B” and “C” are not adopted. It is anticipated that similar forms will be adopted by the Council after further study and review.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL

BUSINESS LICENSE TAX
APPORTIONMENT GUIDELINES

A. Preamble

Pursuant to Section 6-1.436 of the Modesto Municipal Code, the City Council hereby issues the following apportionment guidelines to instruct taxpayers who do business in more than one city to divide their gross receipts between those cities to reduce the risk of multiple taxation. These guidelines are intended to guide City officials and their representatives in administering and enforcing the business license tax ordinance.

B. Apportioning Taxpayers

For purposes of the business license tax, also known as the mil tax, the City of Modesto ("City") regards as taxable gross receipts all receipts derived from the taxpayer's fixed place of business in the City, or from the taxpayer's business operations performed in the City, as recorded on the records of the business. If a portion of such receipts is derived from business conducted outside the City limits, the taxpayer may apportion its receipts between the jurisdictions in which it does business when the following conditions are met:

1. The activity or portion of activity for which apportionment is requested is part of the business' own operations and it is conducted internally by this business completely outside the City limits; and

2. The taxpayer's business records support with clarity the place of such outside activity and the receipts connected therewith.

C. The Apportionment Factors

Receipts are apportioned with emphasis on different aspects of a taxpayer's operations. The taxpayer's business can be divided into as many of the eight economic components as apply to the taxpayer's activity.

If you apply all of the economic components and the maximum percentage for each, one will account for more than 100% of the value of his or her receipts. But by their terms, some of the components apply only to retailers and other sellers of goods and other components apply only to service providers. Therefore, no taxpayer will apply the maximum of each component to its gross receipts.

1. The Eight Factors

An apportioning taxpayer may reduce its total receipts from its operation of its City business or from work done in the City by the percentage (not exceeding the cap)
reflecting various kinds of activity that occur outside the city: (1) if the relevant sales or a portion thereof are negotiated or solicited elsewhere, the taxpayer may reduce its base up to 25%; (2) if the sales office or the place where contracts or orders are accepted and/or processed is elsewhere, the taxpayer may reduce its base up to 15%; (3) if the merchandise was stored elsewhere immediately prior to delivery, the taxpayer may reduce its base by up to 20%; (4) in the case of service providers, if the location of the principal place of business of the service providers who actually worked on the project is outside the City, the taxpayer may reduce its base up to 30%; (5) if the ultimate point of delivery is out of the City, the taxpayer may reduce its base by up to 10%; (6) if the service is actually performed outside the City, the taxpayer may reduce its base by up to 30%; (7) if the billing office is outside the City, the taxpayer may reduce its base by up to 5%; and (8) if the collections office is elsewhere, the taxpayer may reduce its base by up to 5%.

These factors are set forth in the following table:

<table>
<thead>
<tr>
<th>FACTOR</th>
<th>RANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Point Of Sale (solicitation or negotiation)</td>
<td>1% up to 25%</td>
</tr>
<tr>
<td>Sales Office Or Place Where Contracts Or Orders Are Accepted And/Or Processed</td>
<td>1% up to 15%</td>
</tr>
<tr>
<td>Warehouse Location.</td>
<td>1% up to 20%</td>
</tr>
<tr>
<td>The Service Providers' Principal Place of Business</td>
<td>1% up to 20%</td>
</tr>
<tr>
<td>Place Where Goods Are Delivered</td>
<td>1% up to 10%</td>
</tr>
<tr>
<td>Place Where Service Is Performed</td>
<td>1% up to 30%</td>
</tr>
<tr>
<td>Location of Billing Office.</td>
<td>1% up to 5%</td>
</tr>
<tr>
<td>Location of Collections Office</td>
<td>1% up to 5%</td>
</tr>
</tbody>
</table>

2. Definitions

   a. Point Of Sale

The location where the sales were negotiated or solicited by the taxpayer, through his or her physical presence or the presence of an employee, representative, or agent.
b. Sales Office Or Place Where Contracts Or Orders Are Accepted And/Or Processed

The sales office(s) that served as the base of operations for sales activities, or if there is no such sales, the office(s) from which sales activities were internally directed or controlled, or where orders, contracts, etc. were received, accepted or approved at a level above the sales level.

c. Warehouse Location

This component applies only to retailers and other sellers of goods to whom the business license tax applies. It refers to the facility or facilities, internally controlled and operated, where the goods, wares, or merchandise were stored immediately prior to shipment or delivery.

d. Service Provider’s Principal Place Of Business

This component applies only to service providers to whom the business license tax applies. It refers to the location(s) of the principal place of business of the service providers who generated the taxable receipts.

e. Place Where Goods Are Delivered

This component applies only to retailers and other sellers of goods to whom the business license tax applies. It refers to the place(s) where goods, wares, merchandise, or services were delivered if the ultimate delivery point is outside the City.

f. Place Where Services Are Performed

This component applies only to service providers to whom the business license tax applies. It refers to the location(s) at which the service providers actually perform their work.

g. Location of Billing Office

The place(s) where the taxpayer internally performed billing activity.

h. Location of Collections Office

The place(s) where the taxpayer internally performed its revenue collection activity.

D. The Safety Valve

Given the difficulty of designing an apportionment system that can apply evenly and fairly to all business types, the City Council directs the taxpayer to subdivision
(c) of Section 6-1.436 of the Municipal Code, which allows taxpayers, with the consent of the Director, to employ an alternative apportionment method:

None of the business license taxes provided for by this title shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the Constitutions of the United States or the State of California. In any case where a business license tax is believed by a tax license holder or applicant for a license to place an undue burden upon interstate commerce, or be violative of such constitutional clauses, he may apply to the Tax Collector for an adjustment of the tax. Such application may be made before, at, or within six (6) months after payment of the prescribed business license tax. The applicant shall, by sworn statement and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Tax Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Tax Collector shall then conduct an investigation and, after having first obtained the written approval of the City Attorney, shall fix as the business license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the business license tax has already been paid, shall order a refund of the amount over and above the business license tax so fixed. In fixing the business license tax to be charged, the Collector shall base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, and that the tax is imposed only on gross receipts resulting from business done with the City, or reasonably deemed to have been conducted in the City.

1. The Apportionment Questionnaire

Concurrent with each tax payment, an apportioning taxpayer must submit a document substantially in the form of BL-2 Form, the Apportionment Worksheet, and all supporting documents necessary to illustrate their apportionment calculations.

E. Applicability

These rules will apply to all future payments under the City's business license tax, as well as all claims for refund of taxes already paid, including claims that are pending on the date these rules are adopted, if one basis for the claim is the City's application of the tax to receipts arising from transactions that occur, in whole or in part, outside the City.
ATTACHMENT-B

BUSINESS LICENSE APPORTIONMENT WORKSHEET – BL-2

A taxpayer may reduce total receipts from the operation of business or from work performed in the City by a percentage that represents activities that occur outside the city. If you believe this applies to your business please complete this BLAW-03 Apportionment worksheet.

**Business Name:** ___________________________ **Account Number:** __________

**Calculate total gross receipts.**

Total Gross Receipts = __________

**Were all sales, services, deliveries, warehousing, billing, and collection done within the City limits of Modesto?**

**YES**

**NO**

**Do your records support the existence of operations outside the City of Modesto?**

**YES**

**NO**

**Business Eligible for Apportionment - Complete the balance of this worksheet**

**#1 - Point of Sale:** What percentage, if any, of receipts were derived from transactions solicited or negotiated outside of Modesto?

(Point of sale can be up to 25% of value of receipts.) ________ %

Calculation ________ % = ________ /100 x .25 = ________ % transfer to box at right.

Example: (50% Modesto; 50% other = 50/100 x .25 = .125 [12.5%])

**#2 - Location of Responsible Sales Office:** What percentage, if any, of receipts were derived from transactions where the responsible sales office was outside of Modesto?

(Location of responsible sales office can be up to 15% of value of receipts.) ________ %

Calculation ________ % = ________ /100 x .15 = ________ % transfer to box at right.

Example: (90% Modesto; 10% other = 10/100 x .15 = .015 [1.5%])

**#3 - Warehouse Location:** What percentage, if any, of receipts are derived from transactions where goods sold are stored in a facility outside of Modesto?

(Warehouse location can be up to 20% of value of receipts.) ________ %

*Note: If you are providing a service the answer is “0”.

Calculation ________ % = ________ /100 x .20 = ________ % transfer to box at right.

Example: (67% Modesto; 33% Other = 33/100 x .20 = .066 [6.6%])
#4 - Service Providers Principal Place of Business: What percentage, if any, of receipts are derived from transactions in which the service providers who actually worked on the transaction maintained their principal place of business outside of Modesto?
(Service providers principal place of business can be up to 20% of the value of receipts.) _____%  
*Note: If you are a retail business the answer is 0".  
Calculation _____ % = ______ /100 x .20 = ______ % transfer to box at right.  
Example: (75% Modesto; 25% other = 25/100 x .20 = .05 [5%])

#5 - Place Where Goods Were Delivered: What percentage, if any, of receipts are derived from transactions for the sale of goods for which delivery took place outside of Modesto?  
(Place where goods were delivered can be up to 10% of the value of receipts.) _____%  
*Note: If you are providing a service the answer is "0".  
Calculation _____ % = ______ /100 x .10 = ______ % transfer to box at right.  
Example: (67% Modesto; 33% Other = 33/100 x .10 = .033 [3.3%])

#6 - Place Where Service Was Performed: What percentage, if any, of receipts are derived from transactions in which the principal service providers worked outside of Modesto?  
(Place where service was performed can be up to 30% of value of transaction.) _____%  
*Note: If you are a retail business the answer if "0".  
Calculation _____ % = ______ /100 x .30 = ______ % transfer to box at right.  
Example: (50% Modesto; 50% Other = 50/100 x .30 = .15 [15%])

#7 - Location of Billing Office: What percentage, if any, of receipts are derived from transactions in which billing responsibilities were assigned to personnel based outside of Modesto?  
(Location of billing office can be up to 5% of the value of receipts.) _____%  
Calculation _____ % = ______ /100 x .05 = ______ % transfer to box at right.  
Example: (0% Modesto; 100% other = 100/100 x .05 = .05 [5%])

#8 - Location of Collection Office: What percentage, if any, of receipts are derived from transactions in which collection responsibilities were assigned to company personnel based outside Modesto?  
(Location of collection office can be up to 5% of the value of receipts.) _____%  
Calculation _____ % = ______ /100 x .5 = ______ % transfer to box at right.  
Example: (20% Modesto; 80% other = 80/100 x .05 = .04 [4%])

Total % ________ (A)  
Figure Mill Tax as Apportioned  
Add all boxes  
Apportionment adjustment. (Transfer to line 7 on section II of Gross Receipts Form [BL-1])
DECLARATION OF GROSS RECEIPTS

Location:

Owner's Name:

Account #:

Period Ending:

Last Day to Pay:

TAX FORMS MUST BE FILED EVERY PERIOD, EVEN IF THE GROSS RECEIPTS ARE ZERO. IF THIS IS THE LAST TIME THEN ENTER -0-, SIGN THE FORM AND RETURN.

Worksheet & Instructions for completing this form

Your license mill tax is now due and will become delinquent the day after the "Last Day to Pay". Please be aware that a 5% per month penalty will be added to your account for late payment up to a maximum of 25%. Please complete both sides of this form and return the bottom portion with your payment; keep the top portion of this form for your records.

Section I

Step 1 - CALCULATION OF TAXABLE GROSS;

Line A - GROSS RECEIPTS - Enter the total amount of receipts of cash, credits or property arising from conducting business

Line B - ADJUSTMENTS - Enter the total of allowable adjustments

Enter here and on Line B below (see worksheet on reverse for calculation of allowable adjustments)

Line C - TAXABLE GROSS - Subtract Line B from Line A (Enter here and on Line C below)

Step 2 - CALCULATION OF TOTAL TAX DUE:

Line D - CALCULATION OF TAX - Multiply TAXABLE GROSS (Line C) X the tax rate

Prior Charges and Credits (See below)

Line M - TOTAL TAX DUE = Add Lines D thru L (Enter here and on Line M below)

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City of Modesto
P.O. Box 3442
Modesto, CA 95353

DECLARATION OF GROSS RECEIPTS

Account Number

CALCULATION OF TAX

<table>
<thead>
<tr>
<th>Period Ending</th>
<th>Last Day to Pay</th>
<th>GROSS RECEIPTS</th>
<th>ADJUSTMENTS</th>
<th>TAXABLE GROSS</th>
<th>TOTAL TAX DUE</th>
</tr>
</thead>
</table>

Final Report: If you no longer do business in Modesto, check here.

Date Business Closed

I declare under penalty of perjury that to my knowledge all information contained in this declaration is true and correct.

Signature

TOTAL TAX DUE
Section II
ALLOWABLE ADJUSTMENTS (Complete both top and bottom portions of this sheet)

1) Cash discounts ................................................................. $____________________
2) Value of trade ins ............................................................. $____________________
3) Sales tax collected for payment to the State ........................................... $____________________
4) Value of returned merchandise .................................................... $____________________
5) Trustees' collections for others .................................................... $____________________
6) **Amounts paid by a General Contractor to a licensed Sub-Contractor $____________________
7) ***Amount of apportionment to other taxing jurisdictions (from apportionment worksheet) $____________________

TOTAL ADJUSTMENTS (Enter here, Line B on reverse and Line B on return stub) $____________________

*These adjustments require an explanation
**This adjustment must have a list showing name, address, City of Modesto business license # and amount paid to each Sub-Contractor
***This adjustment requires copy of other jurisdictions current license

Explanation: ____________________________________________________________________________________________

City of Modesto
P.O. Box 3442
Modesto, CA 95353-3442

Explanation of Adjustments
________________________________________________________________________________________________________
________________________________________________________________________________________________________
________________________________________________________________________________________________________
A RESOLUTION RESCINDING RESOLUTION 2003-305 AND AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A PURCHASE ORDER TO MISCO OF PLEASANTON, CA. FOR ONE JWC ENVIRONMENTAL SCREEN WASHER COMPACTOR FOR A TOTAL COST OF $80,374.68

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) is requesting the purchase of a JWC Environmental screen washer compactor, and

WHEREAS, a JWC Environmental screen washer compactor is a machine used to wash and compact all of the waste that is collected from the primary WQC plant influent bar screens in preparation for landfill, and

WHEREAS, this machine greatly reduces the volume of waste by approximately 60% by washing organic matter out of the trash putting it back into the treatment process, and

WHEREAS, by using a screen washer compactor in our wastewater process, it will greatly reduce landfill disposal costs, and

WHEREAS, this process also benefits the citizens of Modesto by reducing odors from the WQC plant as well as reducing disposal costs, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution 2003-305 is hereby rescinded.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to MISCO of Pleasanton, Ca. in the amount of $80,374.68.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating,
        O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

BY: 

Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A REQUEST FOR BID FOR SIX (6) UTILITY TRUCKS AND ONE (1) BACKHOE TRAILER FOR A TOTAL ANTICIPATED COST OF $247,000.00

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of six (6) utility trucks and one (1) backhoe trailer, and

WHEREAS, the six utility trucks consist of one (1), ½ ton extended cab truck with utility body; one (1), 3/4 ton extended cab truck; one (1) 21,000 Goss Vehicle Weight (GVW) cab and chassis; two (2), ¾ ton trucks with utility body; one (1) 15,000 Gross Vehicle Weight (GVW) truck with utility body; and one (1), backhoe trailer, and

WHEREAS, the ¾ ton extended pickup, the ¾ ton extended cab truck with utility body, and the 21,000 GVW cab and chassis are additional trucks for the Water Division, and

WHEREAS, these trucks will be used by the heavy construction crews doing installation and major line constructions, and

WHEREAS, these trucks will also be used by pump mechanics and have been added to the water division, and

WHEREAS, replacement trucks are replacing trucks that have met their life expectancy and are in need of replacement for maintenance and reliability reasons, and

WHEREAS, one ¾ ton truck with utility body is a replacement for an existing truck in the Community Forestry Division, and

WHEREAS, this truck is a replacement for a truck with has met its life expectancy and is in need of replacement of maintenance and reliability reasons, and
WHEREAS, the 15,000 GVW truck with utility body is an additional unit for Transit Division and will be used for maintenance of bus shelters, and

WHEREAS, the trailer-backhoe will be used by the storm water maintenance crews, and

WHEREAS, the new basins are larger and require a higher level of maintenance, and

WHEREAS, the Community Facilities District (CFD) funds are being made available for maintenance on the storm water system, and

WHEREAS, the combined estimated total cost of this purchase is $247,000.00, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding $50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, by soliciting competitive bids the City will achieve the best value for the six (6) utility trucks and one (1) backhoe trailer and meet the City’s requirements for formal bidding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for six (6) utility trucks and one (1) backhoe trailer is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for six (6) utility trucks and one (1) backhoe trailer to be opened in the City Clerk, 1010 10TH Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.
SECTION 2. After the bids are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-504

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO ALTEC INDUSTRIES INC. OF DIXON, CA. FOR ONE (1) CURRENT YEAR FORD SUPER DUTY F550 AERIAL TRUCK, WITH UTILITY BODY AND AERIAL MAN LIFT FOR A TOTAL APPROXIMATE COST OF $75,644.61

WHEREAS, the Operations and Maintenance Department-Fleet Services has requested the purchase of a Ford Super Duty F550 aerial truck, with utility body and aerial man lift, and

WHEREAS, this new truck will be used in the repair of streetlights and traffic signals, and

WHEREAS, the Fleet Services Division has identified this vehicle as a critical need in the performance of its work, and

WHEREAS, Resolution 2003-185 authorized the solicitation of bids for one (1) current model year Ford Super Duty F550 aerial truck, and

WHEREAS, the Modesto Municipal Code generally requires all purchases exceeding $50,000 for materials and equipment of this type to be formally bid, and

WHEREAS, the Purchasing Division solicited formal bids on Request for Bid (RFB) 0203-27, and

WHEREAS, out of eleven vendors solicited, two (2) responded to the RFB, and

WHEREAS, Altec Industries Inc. of Dixon, Ca. is the lowest responsive and responsible bidder with an a total approximate cost of $75,644.61.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid for one (1) current model year Ford Super Duty F550 aerial truck to Altec Industries Inc. of Dixon, Ca. for a total approximate cost of $75,644.61.
BE IT FURTHER RESOLVED that the Purchasing Supervisor is authorized to issue a purchase order to Altec Industries Inc. in the approximate amount of $75,644.61.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR SEVEN (7) UTILITY VEHICLES TO THE FOLLOWING VENDORS: PACIFIC UTILITIES OF SACRAMENTO, CA. IN THE APPROXIMATE AMOUNT OF $548,866.64; MUNICIPAL MAINTENANCE EQUIPMENT OF SACRAMENTO, CA. IN THE APPROXIMATE AMOUNT OF $143,075.04; AND JACK HUBBARD SALES OF MODESTO, CA. IN THE APPROXIMATE AMOUNT OF $61,429.24. THE TOTAL PURCHASE APPROXIMATE AMOUNT FOR SEVEN (7) UTILITY VEHICLES IS $753,370.92.

WHEREAS, the Operations and Maintenance Department-Fleet Services had requested the purchase of six (6) utility vehicles, with one (1) additional truck with sewer rodder body, and

WHEREAS, Resolution 2003-233 authorized the solicitation of bids for six (6) utility vehicles, and

WHEREAS, forty-three vendor were solicited for Request for Bid (RFB) 0203-33, ten (10) chose to respond to the RFB.

WHEREAS, the seven utility vehicles consist of three (3) trucks, 33,000 GVW w/crane & flatbed; two (2) service truck with sewer rodder body; one (1) service truck with utility body and crane; and one (1) truck with 6/7 yard dump body, and

WHEREAS, the three (3) new flatbed crane trucks will be utilized by the Water and Waste Water Collections Divisions, and

WHEREAS, reliable, properly equipped crane trucks are needed to handle the heavy work on the water construction crews, and

WHEREAS, Municipal Maintenance of Sacramento, Ca. is the lowest responsive and responsible bidder for two (2) tucks with sewer rodder body for a total approximate cost of $143,075.04, and

09/23/03/Finance/T Reddie/Item 18 1 2003-505
WHEREAS, Pacific Utility of Sacramento, Ca. is the lowest responsive and responsible bidder for three (3) crane trucks w/crane & flatbed truck and one service truck with utility body and crane for a total approximate cost of $548,866.64, and

WHEREAS, Jack Hubbard Sales of Modesto, Ca. is the lowest responsive and responsible bidder for one (1) cab & chassis truck with 6-7 yard dump body for a total approximate cost of $61,429.24, and

WHEREAS, the combined estimated total approximate cost for seven (7) utility vehicles is $753,370.92, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby award bid for seven (7) utility vehicles to the following vendors: Pacific Utilities of Sacramento, Ca. in the approximate amount of $548,866.64; Municipal Maintenance Equipment of Sacramento, Ca. in the approximate amount of $143,075.04; and Jack Hubbard Sales of Modesto, Ca. in the approximate amount of $61,429.24. The total purchase approximate amount for the seven (7) utility vehicles is $753,370.92.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for seven (7) utility vehicles.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST: 
Michael D. Milich, City Attorney

APPROVED AS TO FORM:

By: 
Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-506

A RESOLUTION AUTHORIZING THE PURCHASE OF TWO PIERCE QUANTUM FIRE ENGINES FROM GOLDEN STATE FIRE APPARATUS, FOR A TOTAL COST OF $686,866.06 AND APPROVING THE USE OF THE CITY OF BERKELEY’S CONTRACT FOR THIS PURCHASE.

WHEREAS, the Modesto Fire Department uses fourteen engine companies and two truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of eleven engine companies and two truck companies, and

WHEREAS, three reserve engines are utilized when front line apparatus are out-of-service for repairs and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, an engine company’s useful lifespan is projected at fifteen years in front line service and five in reserve status, and

WHEREAS, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Finance Department and Fire Department representatives worked together through the bid process to award of contract, and

WHEREAS, Pierce Manufacturing was declared low bidder and awarded the contract, and

WHEREAS, Modesto Fire Department received its first Pierce fire engine is 1989 and a second in 1990, and
WHEREAS, since that time, we have purchased eight (8) additional engines and two (2) trucks from Pierce, and

WHEREAS, in July 2000, the City of Berkeley completed a thorough bid process for fire apparatus, and

WHEREAS, Golden State Apparatus (Pierce Manufacturing) was the successful bidder in the bid process and awarded a contract by the City of Berkeley, and

WHEREAS, Pierce has been successful in forty-two competitive bid processes within the State of California during the last two years, and

WHEREAS, the City of Berkeley’s bid specifications closely resemble the ones specified by the Fire Department’s apparatus committee, and

WHEREAS, pricing provided to the City will be effective through October 1, 2003, and

WHEREAS, after October 1, 2003 Pierce Manufacturing is anticipating a three-percent increase in pricing, and

WHEREAS, pricing provided to the City using the City of Berkeley’s contract represents a savings of approximately, $5,273.73 per engine on the price paid for the apparatus purchased in August 2002, and

WHEREAS, the cost savings represents a two-engine order, and engineering cost savings, and

WHEREAS, the price also represents a roll back of the 3% increase in between 2002/2003, for an additional savings of $20,605.00, and

WHEREAS, the total cost of the engines is $686,866.06,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of two Pierce Quantum fire engines from Golden State Fire Apparatus at a cost of $686,866.06.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the use of the City of Berkeley’s contract for Pierce fire engines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [signature]
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:
By: [signature]
Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-507

A RESOLUTION AUTHORIZING THE DISPOSAL OF A 1977 VAN PELT ENGINE, EITHER BY PUBLIC AUCTION, PRIVATE SALE, OR TRADE-IN.

WHEREAS, the City purchased a new engine from Pierce Manufacturing in 1996, and

WHEREAS, at that time the existing 1977 Van Pelt engine was placed into reserve status to be utilized when a front line apparatus is out-of-service for repairs and/or when additional apparatus is needed to maintain our delivery system, and

WHEREAS, the 1977 Van Pelt engine has exceeded its life expectancy and is being replaced by a 1989 Pierce engine on reserve status,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the disposal of the 1977 Van Pelt engine, either by public auction, private sale, or trade-in is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-508

A RESOLUTION APPROVING THE APPLICATION FOR $300,000 TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM.

WHEREAS, the California State Department of Housing and Community Development (hereinafter referred to as “HCD”) has issued a Notice of Funding Availability (“NOFA”) for the CalHome program established by Chapter 84, Statutes of 2000 (SB 1656 Alarcon), and codified in Chapter 6 (commencing with Section 59650) of Part 2 of Division 31 of the Health and Safety Code (the “statute”), and

WHEREAS, pursuant to the statute, HCD is authorizing to approve funding allocations utilizing monies made available by the State Legislature to the CalHome program subject to the terms and conditions of the statute and the CalHome Program Regulations adopted by HCD on July 15, 2003, and

WHEREAS, the City of Modesto, Parks, Recreation and Neighborhood Department wishes to submit an application to obtain from HCD an allocation of CalHome funds in the amount of $300,000, and

WHEREAS, said adopted procedures established by HCD require the applicant to certify by resolution the approval of applications and the availability of local matching funds prior to submission of said application to the state,

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

1. Approves the submission of an application to HCD to participate in the CalHome program in response to the NOFA issued on July 16, 2003, which will request a funding allocation for the First Time Home Buyers Down Payment Assistance Program, in the amount of $300,000 for the City of Modesto, and
2. Certifies that said agency has matching funds from the following source: HOME Fund 1170, and can finance 100 percent of the project, half of which will be reimbursed; and

3. If the application is approved, the City of Modesto, Parks, Recreation and Neighborhood Department hereby agrees to use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program regulations cited above, and

4. It also may execute any and all other instruments necessary or required by HCD for participation in the CalHome Program, and

5. Authorizes and appoints the City Manager as agent of the City to submit and execute the application, the Standard Agreement, and all other documents, required by HCD for participation in the CalHome Program, and any amendments thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-509  

A RESOLUTION AUTHORIZING STAFF TO DE-COMMISSION THE MODESTO COMMUNITY SERVICE CENTER AND TO SECURE THE FACILITY AND TO DEMOLISH THE BEARD BROOK T-SHELTER.

WHEREAS, as part of the adopted budget reduction strategies for FY 03-04, the City Council accepted staff’s recommendation to close the Modesto Community Service Center located at 600 E. Morris and to remove the T-Shelter located in Beard Brook Park, and

WHEREAS, staff is recommending to de-commission the Modesto Community Service Center and secure the facility; remove the outside dumpster, the sign in front of building, kitchen appliances, and interior telephone; secure the hot water heater; secure the gas supply to the building, to be handled by PG&E; install motion detectors/dusk to dawn lighting; remove or prune all shrubs at the base of the building; and maintain utilities for the preservation of historical artifacts, and

WHEREAS, staff is recommending to demolish the Beard Brook T-Shelter and landscape the site to blend in with the surroundings, and

WHEREAS, the Safety and Communities Committee met on September 3, 2003, and supported the recommended actions to de-commission the Modesto Community Service Center and to demolish the Beard Brook T-Shelter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to de-commission the Modesto Community Service Center and to secure the facility, and to demolish the Beard Brook T-Shelter.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23\textsuperscript{rd} day of September, 2003, by Councilmember Fisher,
who moved its adoption, which motion being duly seconded by Councilmember
Frohman, was upon roll call carried and the resolution adopted by the following vote:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>Councilmembers:</th>
<th>Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES:</td>
<td>Councilmembers:</td>
<td>None</td>
</tr>
<tr>
<td>ABSENT:</td>
<td>Councilmembers:</td>
<td>None</td>
</tr>
</tbody>
</table>

Attest: \underline{Jean Zahr} City Clerk

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-510


WHEREAS, as part of the adopted budget reduction strategies for FY 03-04, the City Council accepted staff’s recommendation to close the Modesto Community Service Center located at 600 E. Morris and to remove the T-Shelter located in Beard Brook Park, and

WHEREAS, staff is recommending to de-commission the Modesto Community Service Center at a cost of $12,050, and

WHEREAS, staff is recommending to demolish the Beard Brook T-Shelter and landscape the site to blend in with the surroundings at a cost of $13,700, and

WHEREAS, the Safety and Communities Committee met on September 3, 2003, and supported the recommended actions to de-commission the Modesto Community Service Center and to demolish the Beard Brook T-Shelter, and

WHEREAS, Funds are not budgeted for these actions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2003-04 budget to appropriate $25,750 from the General Fund Reserve, 0100-800-8000-8003 to Facilities, Building Rental accounts 0100-380-3810-0235 ($15,750) and 0100-380-3810-0255 ($10,000) for City staff labor.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAH, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-511


WHEREAS, on April 25, 2000, by Resolution No. 2000-189, the City Council approved a license agreement with Chris Ricci Presents, Inc., to hold an annual Xclamation Fest, and

WHEREAS, the Safety & Communities Committee met on March 31, 2003 and supported approval of the Xclamation Fest 2003 for July 19, 2003, and

WHEREAS, on April 22, 2003, by Resolution No. 2003-201, the City Council approved Xclamation Fest 2003 hosted by Chris Ricci Presents, Inc. and JCD Concepts 2000, Inc. in downtown Modesto on Saturday, July 19, 2003, and

WHEREAS, the fourth annual Xclamation Fest was held on Saturday, July 19, 2003, and

WHEREAS, this downtown music and arts festival was successful, both financially and for providing a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for the 2004 annual Xclamation Fest is Saturday, July 17, 2004, and

WHEREAS, Mr. Ricci coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants, and
WHEREAS, the Safety & Communities Committee reviewed this item at its September 3, 2003 meeting and supported approval of staff's report of Xclamation Fest 2003 and accepted the recommendation to support Xclamation Fest 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff's report on Xclamation Fest 2003 held in Downtown Modesto on Saturday, July 19, 2003.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2004 to be held in Downtown Modesto on Saturday, July 17, 2004.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Conrad, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2003/04 BUDGET TO TRANSFER FUNDS FROM THE ASSET FORFEITURE TRUST FUND TO THE GENERAL FUND, POLICE SUPPORT DIVISION, FOR A DONATION TO THE COMMUNITY ACTION COALITION

WHEREAS, the Community Action Coalition is a grass roots organization of government and community leaders, law enforcement, business professionals and members of the faith community who are committed to the goal of improving the quality of life in Stanislaus County, and

WHEREAS, the Coalition desires to sponsor the “Cutting Edge Training,” a comprehensive crime and drug prevention strategic planning conference to be attended by the Community Action Coalition members on October 21 and 22, 2003. The conference will provide the planning, implementation and evaluation of a systems-wide approach to:

- Quality-of-life Improvements
- Improved Public Safety
- Helping Families Succeed
- Employing all Elements of the community to Secure Peace and Eliminate Disorder
- Building Partnerships and Consensus
- Solving Local Problems as a Team
- Keeping Children Safe, Drug Free, and in School
- Drug and Crime Prevention, and

WHEREAS, the need for this conference and its potential for assuring our county continues to move in the direction its citizens desire and deserve is very important, which is why we want to support the efforts of the Community Action Coalition, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for the purpose of making a donation to this important training for our community, and
WHEREAS, the Safety and Communities Committee unanimously
recommended this action at its meeting of June 30, 2003,

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

that the 2003/04 Annual Budget is hereby amended as indicated below:

Appropriate:
To: 0100-190-1921-1202  $5,000  Police Support Division

Revenue:
From: 0100-190-1921-7202  $5,000  Seized Forfeitures

To make a donation of $5,000 for the "Cutting Edge Training."

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 23rd day of September, 2003, by Councilmember Conrad,
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: Conrad, Fisher, Frohman, Jackman, Keating,
       O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________
         JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: __________________________
    MICHAEL D. MILICH, City Attorney
A RESOLUTION ADOPTING CITY COUNCIL POLICY No. 1.030 FOR REIMBURSEMENT OF CONFERENCE AND BUSINESS EXPENSES FOR MEMBERS OF THE CITY COUNCIL.

WHEREAS, on October 16, 1991, an administrative directive was signed by the City Manager which outlined the policy for reimbursement of conference and business expenses for Elected and Appointed City officials, and

WHEREAS, the existing policy has not been revised or updated since October 16, 1991, and

WHEREAS, in March 2002, the City Council directed the City Manager to review the existing travel policy for Elected Officials and to make recommendations to the City Council for any necessary changes or additions, and

WHEREAS, on August 6, 2003, the Audit Committee reviewed the revised policy and made recommendations and changes to the proposed policy, and

WHEREAS, on September 8, 2003, the Audit Committee reviewed and approved the revised City Council Policy No. 1.030, attached hereto, which contains the following changes:

1) The inclusion of usage of the credit card for travel related purposes.

2) Updating portions of the policy relating to hotel accommodations which include:

   a) Removing the requirement that councilmembers traveling to the same conference share a room.

   b) Authorizing early departure from Modesto if available air transportation to a conference is limited and the conference starts at an early hour.
c) Establishes the conference hotel headquarters rate as the maximum rate allowed.

3) Removal of allowance for reimbursement of alcoholic beverages.

4) Updating reimbursement policy for mileage and airfare.

5) Inclusion of a provision allowing city staff to make travel arrangements for the elected official’s spouse/companion insuring that the same rates/arrangements are secured.

6) Inclusion of a provision prohibiting hosting of dinners by elected officials.

7) Appending the applicable sections of the MMC as well as the policy and procedure manual for use of City credit cards.

8) Inclusion of a provision allowing ground travel when it is the most cost effective means of travel.

9) Clarifying the appropriate approving authority for the Mayor and City Council.

10) Requiring reconciliation between the travel claim form and the bank credit card statement prior to submission of the claim form for reimbursement.

11) Adding an audit requirement by the City Auditor and a post audit public disclosure requirement.

WHEREAS, other issues raised were:

1) Apportioning the City Council travel budget amongst members of the City Council as follows: one-third for the Mayor, and two-thirds for the remaining members of the Council.
2) Require a quarterly report to the Audit Committee of travel related and credit card expenses for the City Council, Charter Officers, Deputy City Managers and Department Directors.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby approves and adopts City Council Policy No. 1.030, Reimbursement of Conference and Business Expenses for Members of the City Council attached hereto and incorporated herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Keating, who moved its adoption, which motion was duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-514

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
APPROVING REVISED TERMS AND CONDITIONS FOR THE SALE OF REAL
PROPERTY FOR THE PARCELS LOCATED AT THE SOUTHWEST CORNER
OF 10TH STREET AND H STREET AND AUTHORIZING THE SALE OF SAID
PARCELS TO THE MODESTO REDEVELOPMENT AGENCY.

WHEREAS, on October 10, 2000, the City Council of the City of Modesto (the
“Council”) approved the sale of that certain real property located on the southwest corner
of 10th and H Streets in the City of Modesto which parcels are more particularly described
as Assessor’s Parcel Numbers: 106-42-01; 106-42-02; 106-42-03; 106-42-04 (A map of
said parcels is attached hereto as “Exhibit A” and made a part hereof by this reference),
and

WHEREAS, the City authorized the sale of said parcels to the Modesto
Redevelopment Agency (the “Agency”) which Agency will in turn sell said parcels to
Valley Tower, LLC, a California limited liability company, pursuant to an approved
Disposition and Development Agreement (the “DDA”) for the purpose of constructing a
multi-use project consisting of office space, retail space and a parking garage, and

WHEREAS, the Agency on June 24, 2003, approved a First Amendment to said
DDA (the “First Amendment”), which First Amendment included revisions to the terms
and conditions of said DDA, and

WHEREAS, the Developer has been working with potential tenants and lenders to
ensure a reasonable level of occupancy in the Office Project prior to starting construction
and to obtain mortgage and equity financing for said Office Project, and

WHEREAS, in order to obtain mortgage and equity financing, the Developer has
requested that certain terms and conditions of the DDA and the First Amendment be
revised, and
WHEREAS, in order to obtain the required mortgage and equity financing, the
Developer has requested that the sale of said real property from the City to the Agency be
completed on or before November 19, 2003.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
Modesto that it hereby authorizes the sale of real property to the Modesto Redevelopment
Agency with the close of escrow to be on or before November 19, 2003, which parcels
are more particularly described as Assessor’s Parcel Numbers: 106-42-01; 106-42-02;
106-42-03; 106-42-04.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that
the City Manager is hereby authorized and directed to execute any and all documents
related to and/or required by said real property sale.

The foregoing resolution was introduced at a regular meeting of the Council of the
City of Modesto held on the 23rd day of September, 2003, by Councilmember Keating,
who moved its adoption, which motion being duly seconded by Councilmember Conrad,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, Clerk

(SEAL)
APPROVED AS TO FORM:
By Michael D. Milich, City Attorney
Map of the Site

The City-owned property currently used for public parking, as shown below:
A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND MASTER PLAN INCLUDED THEREIN FOR MADDUX YOUTH CENTER ADDITION/REMODEL PROJECT

WHEREAS, on August 14, 2001, City Council adopted Resolution No. 2001-425, awarding a contract to RRM Design Group, Inc. professional architectural services to prepare the design development and construction documents for the Maddux Youth Center Addition/Remodel project, and

WHEREAS, on February 2, 2002 and on March 25, 2003, the Council approved amendments to the contract to expand the scope of the project, and

WHEREAS, prior to adopting the Design Development Report, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the environmental consequences of the proposed project, and

WHEREAS, on February 3, 2003, the Safety and Communities Committee recommended approval of the Maddux Youth Center Addition/Remodel Design Development Report, and

WHEREAS, by an agenda report dated August 22, 2003, from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Maddux Youth Center Addition/Remodel Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, on September 23, 2003, concurrent with this resolution, the Modesto City Council considered and made certain findings contained in Initial Study EA/PR&N 2003-02, which finds that the potential environmental effects of the project have been adequately addressed by the previously certified Modesto Urban Area General Plan
Master EIR (SCH No. 19999082041), and that the Maddux Youth Center Design
Development Report dated August 20, 2003, is within the scope of the Modesto Urban
Area General Plan and General Plan Master EIR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby finds that the Maddux Youth Center Addition/Remodel Project Design
Development Report is complete and adequate, and it hereby approves the Maddux
Youth Center Addition/Remodel Project Design Development Report, and Master Plan
included therein, a copy of which is on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of September, 2003, by Councilmember
Jackman, who moved its adoption, which motion being duly seconded by
Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the
following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-516

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS CONSISTENT WITH THE SCOPE OF THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH # 1999082041): MADDUX YOUTH CENTER ADDITION/REMODEL PROJECT DESIGN DEVELOPMENT REPORT AND MASTER PLAN INCLUDED THEREIN.

WHEREAS, on March 4, 2003, the Modesto City Council adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report ("MEIR") (State Clearinghouse No. 1999082041) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the City is proposing to do an addition and remodel to the Maddux Youth Center ("Project") including remodeling of the existing center and a 6,000 square foot building addition, with specific improvements to include: a 2,500 square foot building addition to include a multi-purpose room, computer classroom, kitchenette and restrooms; a 3,500 square foot building addition to include a boxing ring, training area, office and storage room; replacement of the existing roof and addition of new skylights; replacement of the existing mechanical air conditioning system; replacement of the interior doors and hardware and existing windows; abatement of asbestos flooring in the office, computer room and weight room and installation of new flooring; installation of new dropped acoustical ceiling and carpeting in the office and computer room; and addition of new cabinets and sink in the pool table room, and

WHEREAS, City staff prepared an Initial Study, Environmental Assessment No. PR&N 2003-02, which concluded that the proposed Project is within the scope of the Modesto Urban Area General Plan MEIR (SCH # 1999082041), and
WHEREAS, the Safety and Communities Committee met on February 3, 2003, and supported the recommendation to approve the Design Development Report and Master Plan contained therein and to adopt an Initial Study for the Maddux Youth Center Addition/Remodel Project, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on September 23, 2003, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered Environmental Assessment No. EA/PR&N 2003-02 “City of Modesto Initial Study and Findings of Conformance with the Modesto Urban Area Master Environmental Impact Report; Proposed Maddux Youth Center Improvements, Located at 615 Sierra Drive, Modesto, California”, for the proposed Project, and the Council hereby makes the following findings:

A. That the proposed Project is within the scope of the General Plan and the General Plan Master EIR (SCH # 1999082041).

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

C. No new or additional mitigation measures or alternatives will be required as a result of this Project that were not previously considered in the General Plan Master EIR.

D. All feasible mitigation measures or feasible alternatives set forth in the Master Environmental Impact Report which are appropriate to the Project have been incorporated into the Project.

E. No new environmental document nor findings pursuant to Section 21081 are required for the Proposed Maddux Youth Center Improvements Project.

F. This Initial Study provides substantial evidence to support findings “A, B, C, D and E” above.
A copy of said Environmental Assessment No. EA/PR&N 2003-02, entitled "City of Modesto Initial Study and Findings of Conformance with the Modesto Urban Area Master Environmental Impact Report; Proposed Maddux Youth Center Improvements, Located at 615 Sierra Drive, Modesto, California" is attached hereto as Exhibit "A", and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
City of Modesto

Initial Study and Findings of Conformance with the Modesto Urban Area Master Environmental Impact Report

Proposed Maddux Youth Center Improvements
Located at 615 Sierra Drive
Modesto, California

EA NO. PR&N 2003-02
Date: August 26, 2003

I. PURPOSE:

The Master Environmental Impact Report (MEIR) for the Modesto Urban Area General Plan provides the basis for environmental review of this proposed Maddux Youth Center Improvements Project, located at 615 Sierra Drive. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effect on the environment that was not examined in the General Plan Master EIR. And, pursuant to Section 21157.1 (c), this Initial Study provides the basis for the determination whether the project is within the scope of the project covered by the General Plan Master EIR.

II. PROJECT DESCRIPTION:

A. Project Title:
Maddux Youth Center Improvements

B. Lead Agency Name and Address:
City of Modesto, P.O. Box 642 Modesto, CA 95353

C. Contact Person, address and phone number:
Bob Ford, Project Coordinator, Parks, Recreation and Neighborhoods Department, (209) 577-5437

D. Project Location:
615 Sierra Drive at "F" Street in Modesto, CA (see attached Exhibit "A")

E. Project Sponsor, address and phone number:
City of Modesto Parks, Recreation and Neighborhoods Department
P.O. Box 642, Modesto, CA 95353
F. Modesto General Plan Designation:
The existing Maddux Youth Center is on land designated as MU – Mixed Use on the adopted Land Use Diagram. (p. III-114, Urban Area General Plan).

G. Zoning:
Medium Density Residential (R-2)

H. Description of Proposed Project:
Improvements to the Maddux Youth Center include remodeling of the existing center and a 6,000 square foot building addition. Specific improvements are as follows:

1. A 2,500 square foot building addition to include a multi-purpose room, computer classroom, kitchenette and restrooms.
2. A 3,500 square foot building addition to include a boxing ring, training area, office and storage room.
3. Replacement of the existing roof and addition of new skylights.
4. Replacement of the existing mechanical air conditioning system.
5. Replacement of the interior doors and hardware, and existing windows.
6. Abatement of Asbestos flooring in the office, computer room and weight room and installation of new flooring.
7. Install new dropped acoustical ceiling and carpeting in the office and computer room.
8. Add new cabinets and sink in pool table room.

The project Master Plan, design and programming are described in detail within the "Design Development Report for the Maddux Youth Center Addition and Remodel," dated August 20, 2003. This project includes adoption of the Master Plan and Design Development Report, Construction Documents and construction of the improvements to the Maddux Youth Center. (See attached Master Plan, Exhibit "B")

I. Surrounding Land Uses:
North: Established City of Modesto neighborhood park and residential neighborhood.
South: Established single-family residential neighborhood
East: Established single-family residential neighborhood.
West: Established single-family residential neighborhood.

J. Other Public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR:
There are eighteen subject areas in the Master EIR for the General Plan. Following is an analysis of how this project conforms to the analysis contained within the Master EIR. Compared to the Master EIR certified for the Modesto Urban Area General Plan, the proposal will not result in increased impacts to any of the following subject areas:

A. Traffic and Circulation
The proposed Maddux Youth Center improvements project proposes to remodel the existing building and would add 6,000 square feet of building space. The
expanded use of the Center and the resultant need for additional parking will be off-set by the striping of diagonal parking spaces along Sierra Drive, a change from the current parallel curb-parking arrangement. Sierra Drive is a collector street that has adequate width to accommodate the diagonal parking. Between 35 and 40 spaces would be created with this diagonal striping, which is more than double the current parking capacity along Sierra. The proposed improvements to the Center would result in no revisions to the adopted land use or land use designations, infrastructure, street access or transportation and circulation system in the General Plan. Thus, the proposed improvements to the Maddux Youth Center would result in no significant increase in demand for circulation facilities that are not anticipated by the traffic model that analyzed the General Plan. Therefore, the proposed improvements are consistent with the Traffic and Circulation needs section of the General Plan MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-33) are, therefore, still valid.

B. Degradation of Air Quality
Construction of the proposed Maddux Youth Center Improvements would result in no revisions to the existing land use or adopted General Plan land use designations, infrastructure, street access or transportation and circulation system. Thus, the proposed Maddux Youth Center Improvements would not result in a significant increase in generation of traffic that is not anticipated by the traffic model that analyzed the adopted General Plan. Therefore, the proposed Maddux Youth Center Improvements will not cause additional traffic-related impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise
The proposed Maddux Youth Center Improvements would result in only minor alterations to the existing building on the site and no changes to land use designations, infrastructure, traffic generation or traffic and circulation system contained in the General Plan. Any construction-related noise would be addressed by compliance to the City's noise ordinance. Because there would not be a significant increase in traffic generated, and roadway level of service would be consistent with the General Plan, the proposed Initiative will not cause an increase in the projected generation of traffic-related noise in the MEIR. Therefore, the project will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land
Because construction of the proposed Maddux Youth Center Improvements would only affect an existing building that has been on-site for over 50 years, it does not effect conversion of productive agricultural lands within the adopted General Plan area. Therefore, the proposal is not an increased impact to loss of productive agricultural land as analyzed by the MEIR. Therefore, 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) are still valid.
E. **Increased Demand for Water Supplies**
Construction of the proposed Maddux Youth Center Improvements is in an older urbanized part of the City and would not result in any change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus the project would not require additional water supplies beyond that identified for the General Plan in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) are, therefore, still valid.

F. **Increased Demand for Sanitary Sewer Services**
Construction of the proposed Maddux Youth Center Improvements project consists of minor alterations to the existing building, with a 6,000 square foot building addition. The floor area will increase, but there would be no changes to gross acreage, land use, infrastructure or circulation system of the General Plan. There would be a less than significant increase in demand for sewer services but it will not create any increase in demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are, therefore, still valid.

G. **Loss of Sensitive Wildlife and Plant Habitat**
The proposed Maddux Youth Center Improvements project site is in an existing, older residential neighborhood in Modesto. The project does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Thus, the project would have no impact to sensitive wildlife or any plant habitat beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are, therefore, still valid.

H. **Disturbance of Archaeological and Historic Sites**
This proposed Maddux Youth Center project will not disturb any archaeological sites that have been identified in the Disturbance of Archaeological of the MEIR.

According to Figure 8-1 of the Final MEIR of the Urban Area General Plan, the proposed project site is located within 100 feet of City of Modesto Preservation Landmark No. 4 – The Modesto Ash Tree. The City’s Urban Area General Plan Archaeological or Historical policies AH-8 through AH-14 apply to this proposal. In addition, Chapter V, Section 8 of Final MEIR addresses potential disturbance of archaeological/historical sites.

The Final MEIR identified potential mitigation measures listed on Table 8-1 (page V-8-19 and V-8-20), which may be applicable. Development adjacent to known Landmark sites could expose the Landmark Preservation Site to risks that may adversely affect this historically and unique feature. Therefore, the placement of the building addition at the east end of the existing facility will ensure that all construction activity keeps clear of the historic Modesto Ash Tree on the north side of the building.

The project does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the
MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Increased Demand for Storm Drainage
The proposed Maddux Youth Center Improvements project is in an established neighborhood, would not result in any change to impervious surfaces, the gross acreage, land use, infrastructure or circulation system of the General Plan. Thus, construction of the project would cause no significant increase in demand for storm drainage that was not already addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are, therefore, still valid.

J. Flooding and Water Quality
The proposed Maddux Youth Center Improvements project consists of a remodel and building addition to an existing building in an established neighborhood, and would not result in a change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not addressed in the MEIR. The project site is approximately 1 mile north of the designated flood plain area of the Tuolumne River. The Existing Conditions, Impacts analysis and the Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are, therefore, still valid.

K. Increased Demand for Parks and Open Space
The proposed Maddux Youth Center Improvements project is within an existing park within an established neighborhood, and would not change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Therefore, construction of project would not generate any new population that would increase demand for use of parks or open space facilities. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore still valid.

L. Increased Demand for Schools
The proposed Maddux Youth Center Improvements project will occur within an established neighborhood, does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Therefore, construction of the project would not generate any new population that would increase demand for use of school facilities. Thus the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are, therefore, still valid.

M. Increased Demand for Police Services
The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood, consists of minor alterations to an existing building and a building addition. The project does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus, it would not result in a significant increase in service demand for the City of Modesto Police Department. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the
Increased Demand for Police Services (pages V-13-1 through V-13-7) are, therefore, still valid.

N. Increased Demand for Fire Services
The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood. The project does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste
The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood, and does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are, therefore, still valid.

P. Generation of Hazardous Materials
The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood, and would not result in any change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The work consists of remodel work to the existing structure, with removal and abatement of some vinyl-asbestos flooring by a State-certified removal contractor. There will be no additional hazardous material generated beyond those identified in the MEIR. The Existing Conditions, Impacts analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-14) are, therefore, still valid.

Q. Landslides and Seismic Activity
The proposed Maddux Youth Center Improvements project will occur within an existing, established neighborhood. The project will remodel the existing structure and will add 6,000 square feet of floor space. The existing building will be evaluated for meeting existing seismic building codes, with all remodel and new construction to meet this code. The proposed project is on an existing park site, does not propose significant changes to gross acreage, land use designations, infrastructure or circulation system of the General Plan. The MEIR analysis shows that because the land is essentially flat, Uniform Building Code requirements have been addressed, and the nearest earthquake fault line is over 15 miles west of the Modesto Urban Area, there will be no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Landslide and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

R. Energy
The proposed Maddux Youth Center Improvements project will remodel and add floor space to an existing building. The project will not change gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus, the project is consistent with the analysis in the General Plan MEIR. Utility
companies serving the Modesto Urban Area indicated, during MEIR preparation, have stated that development of the urban area would result in a less than significant impact on demands for energy. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-7) are, therefore, still valid. Mitigation Measures for air quality and traffic would also help to mitigate energy impacts.

IV. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

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

All applicable and appropriate mitigation measures have been applied to the Maddux Youth Center Improvements Project, including the following:

Traffic and Circulation Measures:

N/A

Air Quality Measures:

Policy VII-H.2[1] The City of Modesto should implement measures to reduce the temporary, yet potentially significant, local air quality impacts from construction activities. Potential measures to be implemented may include those measures listed in Table 2-6 in the Master Environmental Impact Report.

MEIR Table 2-6. Air Quality Measures to Reduce Construction Impacts

1. The following mitigation measures shall be implemented by the City of Modesto, and incorporated into development plans and public facility plans as appropriate:

   a. The City of Modesto shall work with the SJVUAPCD to reduce particulate matter emissions from construction, grading, excavation, and demolition to the maximum extent feasible.

   b. If required by Regulation VIII (Fugitive Dust Rules) of the San Joaquin Valley Unified Air Pollution Control District, the City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development to be constructed with materials that minimize particulate emissions and are appropriate to the scale and intensity of use.

2. The following measures should be strongly encouraged, and incorporated into development plans and public facility plans, when it is shown to be appropriate and feasible

   a. The City of Modesto should reduce PM10 emissions from City-
b. The City of Modesto should adopt a standard set of construction-related mitigation measures that can be adapted to all new, non-emergency construction projects in the City.

Mitigation Measure Air-1: PM10 Control Measures

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.

Noise Measures:

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.

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].
**Agricultural Land Measures:**

N/A

**Water Supply Measures:**

Engineering and Transportation Department staff request that calculations be submitted as part of project application including: water demand, including fire sprinkler requirements, if applicable, and fire flow test results to the Capital Planning Division of the Engineering and Transportation Department.

**Policy V-C.2[a]** During review of all proposed development, the City shall require, as a condition of approval, that all developments reduce their potable water demand. The City should refer to Table V5-1 in the Final Master EIR for potential techniques to reduce potable water demand.

**TABLE 5-1: TECHNIQUES FOR REDUCING POTABLE WATER DEMAND**

a. Install water conserving fixtures and appliances including shower heads, toilets, faucets, washing machines, and dishwashers.

b. Install water conserving landscape materials and irrigation systems in all common landscape areas.

Note: These techniques are required by state law (California Code of Regulations Title 20, Sections 1601-1608). The City of Modesto has adopted these regulations and enforces them through the building permit process.

c. The City shall implement a requirement for the installation of water meters on all new constructions.

**Sanitary Sewer Service Measures:**

N/A

**Sensitive Wildlife and Plant Habitat Measures:**

N/A

**Archaeological or Historic Sites Measures:**

Pursuant to Mitigation Measure AH-13 on page V-8-14 of the final Master EIR, the applicant shall submit proposed construction plans to the City’s Operations and Maintenance Department, Urban Forestry Division to determine whether the Modesto Ash Tree may be adversely affected by the proposed project and the identification of appropriate mitigation measures on Table 8-1 that may be applied to avoid or reduce any potential adverse impacts.
Table 8-1. Procedures for Mitigating and Monitoring Impacts to Cultural Resources

a. Whenever possible, the city shall avoid disturbing or damaging archaeological resources. Preservation in place to maintain the relationship between the artifacts and the archaeological context is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:

1. Planning construction to avoid archaeological sites;
2. Incorporating sites within parks, greenspace, or other open space;
3. Covering the sites with a layer of chemically stable soil;
4. Deeding the site into a permanent conservation easement.

When in-place mitigation is not feasible, data recovery through excavation may be necessary. A data recovery plan, which makes provisions for adequately recovering the scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the Central California Information Center in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code sec. 7050.5; Guidelines sec. 15126.4[b]).

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines sec. 15126.4[b]).

b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.

c. The project sponsor shall identify a qualified archaeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor’s selection of a qualified archaeologist. The archaeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.

d. Reasonable time shall be allowed for the qualified archaeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.

e. If any find is determined to be significant by the qualified archaeologist, representatives of the construction contractor and the City, the qualified archaeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

f. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.
**Policy VII-F.2[e]** If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the State CEQA Guidelines.

**Storm Drainage Measures:**

N/A

**Flooding and Water Quality Measures:**

N/A

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

**Energy**

N/A

**IV CONCLUSIONS/DETERMINATIONS OF FINDINGS**

A. No additional significant environmental effects will occur as a result of this project that were not previously examined in the General Plan Master EIR, because the MEIR assumed the development of the Maddux Youth Center, and the traffic generated by this proposal is less than was analyzed in the MEIR.

B. No new additional mitigation measures or alternatives will be required as a result of this project that were not previously considered in the General Plan Master EIR, because the environmental effects of this project are less than were analyzed by the MEIR (SCH No. 1999082041) for the proposed Maddux Youth Center Improvements project.

C. Construction of the proposed Maddux Youth Center Improvements project is within the scope of the project covered by the General Plan Master Environmental Impact Report.

D. All feasible mitigation measures of feasible alternatives set forth in the Master Environmental Impact Report which are appropriate to the project have been incorporated into the project.
E. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the Proposed Maddux Youth Center Improvements project.

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

Signature:  

Bob Ford, Project Coordinator  

Date: 9-16-03
A RESOLUTION APPOINTING TEN MODESTO AREA HIGH SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH COMMISSION.

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

WHEREAS, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

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

SECTION 1. Three Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Davis High School
Samantha Sheppard

Modesto Christian High School
Jessica Crites

Valley Business High School
Savanah Smith

SECTION 2. Seven Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

Beyer High School
Lisa Daitoku

Big Valley Grace High School
Megan Rangel

Central Catholic High School
Jennifer Cust

Downey High School
Amy Sutherland

Johansen High School
Eve Meyer

Modesto High School
Cailin Cupp

Modesto Christian School
Kim Meyer
SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the City of Modesto Youth Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
BEYER HIGH
Principal: Chris Walker
Contact: Denise L'Heureux, (L'Roo) 576-4329
1717 Sylvan Avenue
Modesto, CA 95355
Ph 576-4311, fax 576-4352

Commissioners:
Daniel Thompson – Sr. (Appointed 2002)
Lisa Daitoku – Jr. (New Appointment)

BIG VALLEY GRACE HIGH SCHOOL
Principal:
Contact: Dan Park, Vice Principal (571-4362)
4040-D Tully Road
Modesto, CA 95350
Ph 577-1604, fax 569-0138

Commissioners:
Megan Rangel – Jr. (New Appointment)

CENTRAL CATHOLIC
President: Jim Pecchenino
Advisor: Kari Henderson x 118
Kathy Padula: 529-9278 x 115
200 So. Carpenter Road
P.O. Box 4876
Modesto, CA 95352
Ph 524-9611, fax 524-4913

Commissioners:
Joseph Speaker – Sr. (Appointed in 2002)
— Jr. (New Appointment)

DAVIS HIGH
Principal: Chuck Edmonds
Advisor: James Hooker
Contact: Rhonda
1200 W. Rumble Rd
Modesto, CA 95350
Ph 576-4500 fax 576-4028

Commissioners:
Samantha Sheppard – Sr. (New Appointment)
Jennifer Cust – Jr. (New Appointment)

DOWNEY HIGH
Principal: Tom Brunskill
Advisor: Christi Victorino (576-4220)
1000 Coffee Rd.
Modesto, CA 95355
Ph 576-4211, fax 576-4258

Commissioners:
Jerad Prasad – Sr. (Appointed 2002)
Amy Sutherland – Jr. (New Appointment)

JOHANSEN HIGH
Principal: Chris Flesuras
Peidi Callahan, Activity Director (576-4997)
641 Nordsman Drive
Modesto, CA 95350
Ph 576-4930, fax 576-4752

Commissioners:
Jesse Dashe – Sr. (Appointed 2002)
Eve Meyer – Jr. (New Appointment)

MODESTO HIGH
Mary Byers, Principal
Craig Orona, Administrative Ass’t
1st & H Streets
Modesto, CA 95351
Ph 576-4401, fax 576-4434

Commissioners:
Okon Harris – Sr. (Appointed 2002)
Cailin Cupp – Jr. (New Appointment)

MODESTO CHRISTIAN
Principal: Cynthia Jewell
Advisor: Kathy Alvernaz
5755 Sisk Road
Modesto, CA 95356
Ph 529-5510, fax 545-0584

Commissioners:
Jessica Crites – Sr. (New Appointment)
Kim Meyer – Jr. (New Appointment)

VALLEY BUSINESS HIGH SCHOOL
Principal: Jeff Tilton, Director Of Charter Schools
Contact: Julie Swift, Instructor
108 Campus Way
Modesto, CA 95350
Ph 558-4415, fax 558-4453

Commissioners:
Savanah Smith – Sr. (New Appointment)
A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES IN THE AMOUNT OF $71,280 PER YEAR WITH PATTON BOGGS, LLP, FOR A PERIOD OF TWO YEARS, TO PERFORM FEDERAL LEGISLATIVE LOBBYING SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto has determined it is desirable to retain a consultant to represent the City’s interests at the federal level, and

WHEREAS, in May 22, 2001, the Modesto City Council adopted Resolution No. 2001-229, approving issuance of a Request for Qualifications (RFQ) for Federal Legislative Lobbying Services, and

WHEREAS, on May 23, 2001 a RFQ for Federal Legislative Lobbyists Services was issued and 17 responses were received, and

WHEREAS, the RFQ responses were reviewed and ranked according to criteria established in the RFQ, and

WHEREAS, personal interviews were conducted with the top eight respondents, and

WHEREAS, on August 21, 2001, the Economic Development and Intergovernmental Relations Committee conducted interviews with Patton Boggs and Van Scoyoc and made a recommendation that the full Council approve sole source negotiations with Patton Boggs, and

WHEREAS, on August 14, 2001, the Modesto City Council adopted Resolution No. 2001-424 authorizing the City Manager to conduct sole source negotiations with Patton Boggs, LLP, to perform Federal Legislative Lobbyist Services, and
WHEREAS, said sole source negotiations have been completed with Patton Boggs, LLP, and

WHEREAS, On September 22, 2003, the Finance Committee recommended a second amendment to Agreement for Consultant Services in the amount of $71,280 per year with Patton Boggs, LLP, for a period of two years be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to Agreement for Consultant Services in the amount of $71,280 per year with Patton Boggs, LLP, for a period of two years.

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 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-520

A RESOLUTION ACCEPTING THE WORK BY REMEDIATION CONSTRUCTORS, INC., FOR THE "HILLSIDE DRIVE EXTENSION" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $299,896.10 PER THE CONTRACT

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Hillside Drive Extension", has been completed by Remediation Constructors, Inc., in accordance with the contract agreement dated January 7, 2003.

NOW, THEREFORE, BE IT RESOLVED that the "Hillside Drive Extension" project be accepted from said contractor, Remediation Constructors, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $299,896.10 as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AWARDING A $199,680 CONTRACT TO STANTEC CONSULTING, INC., FOR ENGINEERING DESIGN SERVICES FOR THE PROJECTS TITLED “ROSE / CELESTE LIFT STATION”, AND THE “SCENIC LIFT STATION”

WHEREAS, following a Request for Qualifications which was sent to 84 engineering firms, 11 qualification statements for the design of the Rose/Celeste Lift Station and the Scenic Lift Station were submitted to the City, and

WHEREAS, from the 11 qualification statements received, 2 of the most qualified firms were short-listed to receive a Request for Proposal and interview, and

WHEREAS, the proposals and interviews for the engineering design services for said project were rated by the selection team, and Stantec Consulting, Inc., was rated highest, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that Stantec Consulting, Inc., be accepted as the most qualified engineering consulting firm, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of Stantec Consulting, Inc., in an amount not to exceed $199,680,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a contract for engineering design services for the projects titled “Rose/Celeste Lift Station”, and the “Scenic Lift Station,” to Stantec Consulting, Inc., in an amount not to exceed $199,680.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-522

A RESOLUTION APPROVING A CONTRACT AMENDMENT WITH THOMPSON-HYSELL ENGINEERS, A DIVISION OF THE KEITH COMPANIES, INC., A CALIFORNIA CORPORATION, IN THE AMOUNT OF $22,041.85 FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES ALL TO PROVIDE ENGINEERING DESIGN SERVICES FOR THE PELANDALE INTERSECTION IMPROVEMENTS AND THE PRESCOTT/SNYDER TRAFFIC SIGNAL PROJECTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on January 14, 2003, the City Council approved a professional services agreement with Thompson-Hysell Engineers, a division of The Keith Companies, Inc., a California Corporation in the amount of $179,380.00 to develop engineering plans for the design of the Pelandale Intersection Improvements and the Prescott/Snyder Traffic Signal, and

WHEREAS, upon proceeding with their original tasks, Thompson-Hysell Engineers was asked to provide additional services to resolve right-of-way issues, to prepare ultimate design and improvement plans, and to perform miscellaneous design changes, and

WHEREAS, Thompson-Hysell Engineers has requested an additional fee of $20,965 to cover the additional scope of work, and

WHEREAS, Thompson-Hysell Engineers also has submitted to City an invoice for miscellaneous fees for reimbursable expenses in accordance with the original agreement in the amount of $1,076.85,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to agreement with Thompson-Hysell Engineers, in the amount of $22,041.85 for additional design services and for reimbursable expenses
for the Pelandale Intersection Improvements and the Prescott/Snyder Traffic Signal projects.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-523  

A RESOLUTION FINDING THAT THE "MODIFICATION OF 3 TRAFFIC SIGNALS" (STANDIFORD/COLONIAL, EL VISTA/ENCINA, AND TULLY/RUMBLE) PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (MEIR), SCH NO. 1999082041

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final MEIR, SCH No. 1999082041, for the Modesto Urban Area General Plan, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a MEIR, 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 MEIR, whether the subsequent project was described in the MEIR, and whether the subsequent project was described in the MEIR as being within the scope of the project, and

WHEREAS, the Engineering and Transportation Department, by Initial Study, EA/ET 2002-11, reviewed and proposed "Modification of 3 Traffic Signals" Project (Standiford/Colonial, El Vista/Encina, and Tully/Rumble) "Project," which determines that the proposed project is within the scope of the project covered by the MEIR, that the proposed project will have no additional, significant effect on the environment that was not identified in the MEIR, and that no new or additional mitigation measures or alternatives may be required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed "Modification of 3 Traffic Signals" Project (Standiford/Colonial, El Vista/Encina, and
Tully Rumble), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

A. The proposed Project is consistent with the City of Modesto General Plan and is within scope of the project covered by the General Plan Final MEIR (SCH No. 1999082041).

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

C. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the General Plan MEIR are required.

D. There is no new information of substantial importance which was known and could not have been known with the exercise of reasonable diligence when the General Plan MEIR was adopted which shows any of the following:
   a. one or more significant effects which is not discussed in the General Plan MEIR; or,
   b. significant effects which were previously examined will be substantially more severe than previously shown; or,
c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,

d. mitigation measures or alternatives which are considerably different from those analyzed in the General Plan MEIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Engineering and Transportation Director is hereby authorized and directed to file a Notice of Approval within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher,
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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
City of Modesto
Initial Study

THREE TRAFFIC SIGNAL MODIFICATIONS

E.A./E.T. No: 2002-11

I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 199082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

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

II. PROJECT DESCRIPTION

A. Project Title:

Three Traffic Signal Modifications ("Project")

B. Lead Agency Name and Address:

City of Modesto, P.O. Box 642, Modesto, CA 95353

C. Contact Person, Address, and Phone Number:

Steven Liu, Engineering and Transportation Department, (209) 577-5297

D. Project Locations:

At three (3) signalized intersections with the City as follows:

- Standiford and Colonial
- El Vista and Encina
- Tully and Rumble

E. Project Sponsor:

City of Modesto, P.O. Box 642, Modesto, CA 95353

F. General Plan Designation:

Location 1: Standiford/Colonial – MU (Mixed Use) (MU)
Location 2: Tully/Rumble – R (Residential)
Location 3: El Vista/Encina – R (Residential)
G. **Zoning:**

Location 1: Standiford/Colonial – PD (Planned Development), R2 (Medium Density Residential), and R3 (Medium High Density Residential).

Location 2: Tully/Rumble – R1 (Low Density Residential), and R2 (Medium Density Residential).

Location 3: El Vista/Encina – R1 (Low Density Residential)

H. **Description of Proposed Project:**

The City is proposing to modify three existing traffic signals at 3 intersections within the City as follows: Standiford and Colonial, El Vista and Encina, and Tully and Rumble. The project will include the addition of protective/permissive left-turn phasing, and upgrading existing signal equipments. The proposed project will help reduce stopping delay, increase traffic safety, and result in a reduction in air pollution at the locations.

I. **Surrounding Land Uses:**

Location 1: Standiford/Colonial – PD (Planned Development), R2 (Medium Density Residential), and R3 (Medium High Density Residential).

Location 2: Tully/Rumble – R1 (Low Density Residential), R2 (Medium Density Residential), and PD (Planned Development).

Location 3: El Vista/Encina – R1 (Low Density Residential)

J. **Other Public Agencies Whose Approval is Required:**

None

III. **ANALYSIS OF CONFORMANCE WITH THE MASTER EIR**

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

A. **Traffic and Circulation**

The Project will not result in a physical change to any existing land use. It is consistent with the General Plan designation for this site. Therefore, the traffic impacts of this project are consistent with those contained in the General Plan Master EIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are, therefore, still valid.
B. Degradation of Air Quality

The air quality impacts for this development are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development would not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

C. Generation of Noise

The Project will not result in a physical change to any existing land use. The proposed use is consistent with the General Plan in land use and intensity, and the noise impacts from the project and to the project are consistent with those analyzed in the Master EIR. Therefore, the project will not create additional significant effects, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are, therefore, still valid.

D. Loss of Productive Agricultural Land

All existing Traffic Signals are located in developed areas outside of productive agricultural land. Therefore, the project is consistent with 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) and they are, therefore, still valid.

E. Increased Demand for Water Supplies

The proposed Project includes traffic signal related improvements, and will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-13) are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services

The proposed Project includes traffic signal related improvements, and will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are, therefore, still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

All existing Traffic Signals are located in developed areas and are not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat.
above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the MEIR. Figure 8-1 of the MEIR indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are, therefore, still valid.

I. Drainage, Flooding and Water Quality

Because the project is consistent with the General Plan in land use and intensity, it will not present any new impacts to drainage, flooding and water quality that have not already been addressed in the MEIR. The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-9-1 through V-9-13) are still valid.

J. Increased Demand for Storm Drainage

The project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The proposed improvements will not have an effect upon the parks or open space needs in the area over that anticipated in the Master EIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are, therefore, still valid.

L. Increased Demand for Schools
The proposed improvements will not create any additional demand for schools. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.

M. Increased Demand for Police Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for police services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are, therefore, still valid.

N. Increased Demand for Fire Services

Because the Project is consistent with the General Plan in land use and intensity, it will not present any increased demand for fire services that has not already been addressed in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are, therefore, still valid.

O. Generation of Solid Waste

This project will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are, therefore, still valid.

P. Generation of Hazardous Materials

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

Q. Landslides and Seismic Activity

This use will result in no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are, therefore, still valid.

R. Energy

This use will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the
Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-7) are, therefore, still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed Installation of Three Traffic Signal Modifications project is within the scope of the General Plan Master EIR (SCH No. 1999032041), which analyzed the potential impacts of buildout of the Urban Area General Plan, including roadways in this area.

B. No additional significant environmental effects will occur as a result of the Three Traffic Signal Modifications project that were not previously examined in the General Plan Master EIR.

C. No new mitigation measures or alternatives will be required as a result of the proposed Three Traffic Signal Modifications project that were not previously considered in the General Plan Master EIR.

D. There are no specific features unique to the Three Traffic Signal Modifications project that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR would apply city wide, including this project as appropriate.

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

Signature:

L. Steven Liu
Assistant Traffic Engineer
A RESOLUTION AWARDING BID AND APPROVING A $210,358 CONSTRUCTION CONTRACT WITH PROFESSIONAL CONSTRUCTION SERVICES FOR THE PROJECT ENTITLED "MODIFICATION OF 3 TRAFFIC SIGNALS"

WHEREAS, the bids received for the "Modification of 3 Traffic Signals" project were opened at 11:00 a.m., on September 9, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of $210,358 received from Professional Construction Services be accepted as the lowest responsible bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid for "Modification of 3 Traffic Signals" project to Professional Construction Services, and approves a $210,358 contract for completion of said project,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM
BUDGET 1) TO INCREASE THE EXPENDITURE APPROPRIATION OF MY-
2300-160-N067 TO REFLECT THE ANTICIPATED INCREASE OF
CONSTRUCTION COSTS, 2) TO SEPARATE THE EXISTING CAPITAL
FACILITY FEES (CFF) TRANSFER OF $55,695 TO MY-2300-700-N067-9141
INTO TWO SEPARATE PROJECT APPROPRIATIONS TO MY-2300-700-N067-
9141 ($23,807) AND MY-2300-700-N498-9141 ($31,888), AND 3) TO INCREASE
THE CFF TRANSFER APPROPRIATION OF MY-2300-700-N067-9141 TO
$68,231 TO COVER THE INCREASED EXPENDITURE APPROPRIATION

WHEREAS, on September 9, 2003, the City Council received bids for a project
titled, "Modification of 3 Traffic Signals," Account No. MY-2300-160-N067, and

WHEREAS, the acceptable low bidder was Professional Construction Services, of
Pleasant Hills, California, with a bid of $210,358, and

WHEREAS, the City has obtained CMAQ funding to pay for up to $181,486, of
the project costs and the remaining portion will be appropriated from CFF reserves, and

WHEREAS, $44,424 in additional local matching funds is required to fully fund
the construction of this project, and

WHEREAS, CIP Projects 2300-160-N067 and 2300-160-N498 were once
combined as a single project and the existing CFF transfer of $55,695 to these projects is
presently combined in 2300-700-N067-9141, and

WHEREAS, there are sufficient funds in the CFF reserve to fully fund 2300-160-
N067,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the CIP budget is hereby amended to:
1) increase the expenditure appropriation of MY-2300-160-N067 to reflect the anticipated increase of the construction costs,

2) separate the existing CFF transfer of $55,695 to MY-2300-700-N067-9141 into two separate project appropriations to MY-2300-700-N067-9141 ($23,807) and MY-2300-700-N498-9141 ($31,888), and

3) increase the CFF transfer appropriation of MY-2300-700-N067-9141 to $68,231 to cover the increased expenditure appropriation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ________________________________
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-526

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR SPOILS REMOVAL SERVICES FOR AN ESTIMATED ANNUAL COST OF $75,000.00

WHEREAS, the Operations and Maintenance Department-Water Division has requested the purchase of spoils removal services, and

WHEREAS, the spoils removal service contractor would remove dirt, mud, asphalt, and other debris related to various maintenance and construction activities, and

WHEREAS, this activity affects a number of work areas in the Department, and

WHEREAS, one of the largest generators of spoil materials is the Water Operations Division where spoils materials are generated each time staff repairs a water leak, installs a new water line, renews a water service, and

WHEREAS, if left along the roadside the spoil materials become an eyesore within the community as well as an can attractive nuisance with potential liability concerns for the City, and

WHEREAS, one of the benefits of removing spoils is that the material may be recycled into other products used in construction projects, and

WHEREAS, recycling keeps the materials out of landfills and out of the waste stream, and

WHEREAS, the estimated annual total cost for spoils removal services is $75,000.00, and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases exceeding $50,000 for materials and equipment of this type to be formally bid, and
WHEREAS, by soliciting competitive bids the City will achieve the best value for spoil removal services and meet the City’s requirements for formal bidding.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that formal solicitation of bids for spoils removal services is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for spoils removal services to be opened in the City Clerk, 1010 10TH Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By: [Signature]

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-527

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A SOLE SOURCE PURCHASE ORDER TO PACO PUMPS JOHNSTON PUMP OF SACRAMENTO, CA. FOR REBUILDING THREE (3) PACO JOHNSTON EFFLUENT PUMPS IN THE AMOUNT OF $65,522.56.

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of rebuilding three (3) Paco Johnston effluent pumps, and

WHEREAS, Paco Pumps Johnston Pump is the Original Equipment Manufacturer (OEM) for these pumps, and

WHEREAS, due to the critical function these pumps perform they need to be rebuilt by the OEM to ensure they are returned to their original specifications, and

WHEREAS, these pumps are used to pump treated secondary effluent into the San Joaquin River during the months of October through May, and

WHEREAS, river conditions and effluent quality can and usually does shorten the season, and

WHEREAS, due to the sensitive nature of this process, we are required to closely monitor the dilution ratios into the river, and

WHEREAS, this is controlled by three (3) Paco Johnston pumps, and

WHEREAS, these pumps have been in service since 1969 and are now due for rebuild to ensure they provide reliable service during the annual window we have for river discharge, and
WHEREAS, a pump failure could result in the inability to discharge to maximize allowable flow to the river which can result in lack of storage capacity for the following reason,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is authorized to issue a purchase order to Paco Pumps Johnston Pump of Sacramento, Ca. in the amount of $65,522.56.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

BY: Michael D. Milch, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-528

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO ISSUE A SOLE SOURCE PURCHASE ORDER TO DOOR OLIVER EIMCO OF SALT LAKE CITY, UTAH FOR ONE MAST TYPE ROTARY DISTRIBUTOR CENTER ASSEMBLY IN THE AMOUNT OF $85,912.89, AND RESCINDING RESOLUTION NO. 2003-442.

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of a mast type rotary distributor center assemble, and

WHEREAS, on August 12, 2003, the City Council adopted Resolution 2003-442 authorizing the Purchasing Division to solicit bids for a mast type rotary distributor center assemble, and

WHEREAS, it was later determined by the Operations and Maintenance Department and Purchasing Division staff that this is a sole source requirement, and

WHEREAS, Dorr Oliver EIMCO is the original equipment manufacturer for this equipment, and

WHEREAS, the mast type rotary distributor center assemble is a major component to the fixed film reactor located at the Secondary Treatment Plant, located at 7007 Jennings Road, and

WHEREAS, it is utilized to evenly distribute waste water over reactor media, and

WHEREAS, the purpose of the reactor is to remove Bio Oxygen Demand (BOD) from the waste water, and

WHEREAS, by authorizing the sole source purchase for a mast type rotary distributor center assembly the WQC Division will be able to maintain plant operations.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is authorized to issue a purchase order to DC Frost Inc. of Walnut Creek, Ca. in the amount of $85,912.89.

BE IT FURTHER RESOLVED that Resolution No. 2003-442 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

WHEREAS, the City of Modesto administers a federally-funded Down Payment Assistance Program (DPAP) to help low and moderate income households purchase a home in Modesto, and

WHEREAS, pursuant to Resolution No. 95-445 adopted on September 12, 1995, the City Council approved dropping the first time buyer requirement, reducing the cash equity requirement for persons under 80% of the median income from 3% to 1%, increasing the maximum assistance for persons under 80% of median income to $7,500, limiting the program to new housing, and determining sales prices for affordability, and

WHEREAS, pursuant to Resolution No. 97-40 adopted on January 14, 1997, the City Council approved increasing the sales price limits and adjusting the loan terms to allow deferral of payments for five years, and

WHEREAS, pursuant to Resolution No. 97-154 adopted on March 25, 1997, the City Council approved expanding the program to include existing homes, and

WHEREAS, pursuant to Resolution No. 2001-434 adopted on August 14, 2001, the City Council approved increasing the eligible sales price limit to the median sales price index, increasing the maximum loan from $7,500 to $25,000, increasing the amortization period from 15 years to 20 years, and requiring the buyer to put at least 1.5% of the purchase price as the buyer’s contribution, and
WHEREAS, pursuant to Resolution No. 2001-606 adopted on November 27, 2001, the City Council approved lowering the interest rate from a 5% fixed simple interest to a 3% fixed simple interest, and increasing the amortization period from 25 years to 30 years with the first five years being interest and payment free, requiring staff and Housing Rehabilitation Loan Committee review of loan applications, requiring site visits to test, contain or abate lead-based paint, requiring that illegal conversions and health and safety hazards be addressed prior to loan closing, and authorizing staff to issue a Request for Proposals for home buying classes at $250 per class, and

WHEREAS, pursuant to Resolution No. 2002-419 adopted on August 27, 2002, the City Council approved requiring that loan applicants reside and/or work in the City of Modesto for at least six consecutive months, increasing the sales price limit up to $174,450, which is the mortgage limit in Stanislaus County for Federal Housing Administration (FHA) loans, and increasing the sales price limit when FHA limit increases, and

WHEREAS, staff recommends that the Down Payment Assistance Program be further amended to change the program format to a pre-qualifying system to expedite the loan process; to increase the maximum loan amount from $25,000 to $60,000; to revise and update the DPAP guidelines; to change the residence requirement to state “The City will allow any eligible low or moderate-income household that has lived within City limits and unincorporated areas or within the City’s sphere of influence and has a Modesto address, or has worked with the City limits for the last six consecutive months to apply for a down payment assistance loan”; and to revise the loan amount for the Down Payment Assistance Program on an annual basis, and
WHEREAS, the Citizens Housing and Community Development Committee met on February 28, 2003, and August 22, 2003, and supported the recommended changes to the Down Payment Assistance Program, and

WHEREAS, the Housing Rehabilitation Loan Committee met on August 7, 2003, and approved the recommended changes to the Down Payment Assistance Program, and

WHEREAS, it is desirable that one resolution be adopted which would restate the requirements for eligibility for applicants to the City of Modesto Down Payment Assistance Program and incorporate the various amendments as mentioned above and that it would be appropriate to rescind those resolutions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby restates the guidelines and approves the changes to the City of Modesto Down Payment Assistance Program as shown on Exhibit “A”, attached hereto and incorporated herein by reference.


BE IT FURTHER RESOLVED that this resolution shall go into effect and be in full force and operation on and after October 8, 2003.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
City of Modesto - Down Payment Assistance Program

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INTRODUCTION

The City of Modesto Parks, Recreation & Neighborhoods Department offers a Down Payment Assistance Program (DPAP) to assist low and moderate-income families purchase a home. With funding from the Community Development Block Grant (CDBG) Program and through partnerships with local lenders we can make homeownership dreams a reality for low and moderate-income families.

The DPAP is designed to assist families that have adequate incomes to afford monthly mortgage payments, but have not been able to save enough money for the down payment and closing costs associated with buying a home. Eligible homes must be located within Modesto city limits and can be either new or existing homes. The program helps homebuyers by providing financial assistance in way of a low interest loan toward down payment and closing costs.

The City of Modesto believes that affordable homeownership opportunities can provide the foundation whereby individual families, and entire neighborhoods, can achieve a sense of stability and community pride.

MAXIMUM LOAN AMOUNT

There is no application fee to apply for a DPAP loan. The maximum loan for each household is determined as follows: For households earning up to 80% of area median income (AMI), the maximum loan is up to $60,000. The current income eligibility limits for low-income households are:

<table>
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<tr>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
<th>HOUSEHOLD SIZE</th>
<th>INCOME LIMIT</th>
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<tr>
<td>1 Person</td>
<td>$26,900</td>
<td>5 Person</td>
<td>$41,450</td>
</tr>
<tr>
<td>2 Person</td>
<td>$30,700</td>
<td>6 Person</td>
<td>$44,550</td>
</tr>
<tr>
<td>3 Person</td>
<td>$34,550</td>
<td>7 Person</td>
<td>$47,600</td>
</tr>
<tr>
<td>4 Person</td>
<td>$38,400</td>
<td>8 Person</td>
<td>$50,700</td>
</tr>
</tbody>
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(Effective March, 2003 and updated annually)

TERMS AND CONDITIONS

A. Purchase Price

The maximum price allowed under this program shall not exceed $202,350. This price shall be modified based upon information available from FHA Mortgage Limits provided by the U.S. Department of Housing and Urban Development.

B. Terms

- The loan shall not accrue interest during the first five years of the term of the loan.
- During the first five years of the term of the loan, applicants shall make monthly payments of 1% of the loan amount. These payments will go towards the principal of the loan.

For more information please contact:

City of Modesto, Parks, Recreation and Neighborhoods Department
1010 10th Street, Suite # 4300,
Modesto, CA 95354.
Phone Number (209) 577-5247,
Fax Number (209) 544-3982.
On the sixth year interest will start to accrue at a 3% annually on the balance of the loan. For example: The principal balance on a $60,000 loan would only be $57,000.00. The payments under these conditions will be approximately $270.30.

Applicants can qualify for a grant of 1/5 of the balance of the loan and amortize the balance under a new agreement if they meet the following conditions:

i. Must reside in the property purchased with the assistance of the DPAP for 10 consecutive years,

ii. Have a good payment history, which includes no late payments, missed payments, or payment arrangements.

Other repayment provisions include the following:

1. The total amount of the loan, plus accrued interest, becomes due and payable at the time of sale or transfer of ownership, refinancing of the property, upon death of owner(s), or upon change of use of the property (if applicant moves out and rents the property).

2. No prepayment penalty. There is no charge or penalty for making full or partial payments on the loan.

3. The DPAP loan is generally not assumable. However, if the subsequent purchaser of the home is otherwise eligible for the Down Payment Assistance Program, the applicant may apply to the City for a waiver of the non-assumption of the loan.

**Subordination Policy:**

Subordinations are not generally allowed. Any first lien on the property ("First Lien") held by an individual lender or investor (the "Lender") shall be prior and superior to the City Loan Agreement, the Declaration of Conditions, Covenants and Restrictions and the City Deed of Trust. However request for subordinations could be approved under the following conditions:

- The new loan shall not be larger than the original first loan.
- The new loan shall bear a fixed interest rate.
- The buyers shall not be allowed to take cash out.
- The buyers shall be responsible for paying the closing costs associated with the refinance.
- The City loan shall not be subordinated to a lower position than the original rank.
- The lender/title company shall provide a copy of cost comparison showing the original terms and the proposed new terms.
- The lender/title company shall be responsible for preparing the subordination instrument at the sole costs of the borrowers.
- The lender/title company shall submit a Good Faith Estimate.
- The lender/title company shall submit a Closing Statement of the new loan.

**PARTICIPANT ELIGIBILITY REQUIREMENTS**

Eligible participants must meet the following eligibility criteria in order to participate.

1. Participant(s) must qualify as a low or moderate-income household. To qualify under these criteria, participant(s) must be household(s) whereby total annual income does not exceed 80 percent (80%) of the area median income (AMI). This is adjusted for family size for Modesto at the time the household initially occupies the property, or at the time the City funds are invested, whichever is later (see income limits previously specified). HOME and CDBG funds can only be used to assist households at or below 80% of AMI.
Section 8 income guidelines are used to determine annual income, which is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming twelve-month period. Income re-certification will be required if more than 180 days have elapsed from the date of the original certification and the date of loan closing or occupancy of the property.

2. The applicant must obtain the maximum loan amount from the first mortgage loan. The City of Modesto will determine the loan amount or gap by calculating the difference between the home sales price and the base loan amount obtained from the first mortgage loan.

3. Participant(s) must complete a homebuyer-counseling workshop from an agency approved by the City, prior to participating in the program.

4. Participant(s) or any household member cannot have owned a home within the past year from date of application. (Exceptions are: death of spouse, recorded dissolution of marriage and relocation due to employment)

5. Eligible participant(s) earning up to 80% of the Area Median Income must contribute 50% of the down payment required by the lender from their own funds.

6. Participant(s) must have sufficient income and credit to qualify for a mortgage loan through a reputable lender.

7. There are some credit issues that applicants must allow for certain time to pass before they can qualify for a DPAP loan. These exceptions are as follows:
   - Two years from the date of discharge for a Bankruptcy, Chapter 7 or Chapter 13. (Applicant should have good credit since to qualify for the program)
   - Three years from the date of foreclosure. (Applicant should have good credit since to qualify for the program).

8. Applicant’s FICO (Fair Isaac Company) score must be 610 or higher.

9. Participant(s) must occupy the property as a principal residence. This means that the participant(s) household must use the property as its primary place of residence.

   **Note:** Use of the property for rental purposes, including temporary leases, is not allowed and, if at any time during the loan term, the property is no longer the principal residence of the participant(s), the loan will become immediately due and payable in full. The loan documents (loan agreement, deed of trust, promissory note) executed by the City and the participant(s) will incorporate this requirement. The property must be occupied within 60 days of loan closing.

   *When making eligibility decisions, only the household composition, employment data, or other relevant information as presented in the original DPAP application will be considered. Applicants will not be allowed to make any material changes in the DPAP application in an attempt to reverse a City loan denial.*

**LOCAL RESIDENCY REQUIREMENT**

The City allows any eligible low or moderate-income household that has lived within City limits and unincorporated areas or within the City’s sphere of influence and has a Modesto address OR works within the City limits for the last six (6) consecutive months to apply for a DPAP loan.
ELIGIBLE HOMES

Homes considered for purchase with a City DPAP loan must meet the following requirements:

1. The home to be purchased must be owner-occupied, vacant or occupied by the tenant making the purchase.

   Homes are considered vacant if they have been unoccupied for at least 6 months prior to the date that the purchase agreement was signed. Acquisition of a house must not result in the displacement of any tenants residing in the unit. DPAP loans cannot be used to assist in the purchase of tenant-occupied properties, unless the tenant is to be the purchaser.

2. A professional home inspector must inspect the property. Items identified as potential health or safety risks to the occupants must be corrected prior to any commitment of City funds. Also, any housing code violations as determined by a professional property inspector must be corrected if they are determined to pose a health or safety risk.

3. The purchase price of the home must not exceed an appropriate housing index.

4. The property must be appraised to determine that the value should be greater or equal to the purchase price.

5. Houses built prior to January 1978 must be inspected for lead-based paint by a Certified Risk Assessor/Inspector. Proof of corrections or of passing must be provided to the City prior to any commitment of City funds.

The City can refuse to participate in the purchase of homes that are clearly not in good repair, determined to contain illegal additions or conversions, or if lead-based paint is found on the property (common in homes built before 1978) and the hazard is not properly abated.

COMBINING THE DPAP LOAN WITH OTHER PROGRAMS AND SUBSIDIES

The DPAP loan may also be combined with other homebuyer programs and subsidies, such as approved sweat-equity programs, FHA 203K loans, HUD homes, mortgage credit certificates (MCCs) and Stanislaus County public facilities fees (PFF) waivers/deferrals. Homebuyers are encouraged to request that participating lenders apply for MCCs and PFF waivers/deferrals on their behalf, since such studies may allow homebuyers to qualify for a higher mortgage.

ASSETS LIMITS

A household's assets (i.e., cash or non-cash items that can be converted to cash) are recognized when determining program eligibility and need for assistance. Households can have no more than $15,000 in liquid assets to be eligible for the program. Should the household's assets be greater than $15,000, the household is not eligible to participate. Also, ownership of any real estate asset will disqualify an applicant from participating in the program. Examples of assets to be considered include:

- Savings account and the average 6-month balance of checking account(s).
- Stocks, bonds, certificates of deposit, money market funds, and other investment funds.
Inheritance, lump-sum insurance payments, already received.
Settlements for personal or property damage already received.
Equity in real property or other capital investments.
Cash value of trusts that are available to the household.
Marketable securities, stocks, bonds and other forms of capital investment, including tax-exempt securities other than an Individual Retirement or Keogh plans.
Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.
Assets that, although owned by more than one person, allow unrestricted access by the applicant.
Lump-sum receipts such as inheritances, jewelry, coin collections, antique cars, capital gains, etc.
Personal property held as investment such as gems, jewelry, coin collections, etc.
Cash value of life insurance policies.

> loan discount fee,
> appraisal fee,
> title report/insurance,
> credit report,
> pre-paids,
> professional home inspections, and other normal settlement charges.

Reimbursement for loan origination fee is limited to 1 percent (of base loan) and reimbursement for loan discount fee is limited to actual cost (applies to CHFA 1-year buy-down only). DPAP loans cannot be used to pay off previous debts incurred by the buyer.

DPAP loans cannot be used with variable rate loans (first mortgage) or used to pay discount points on 3-2-1 interest-rate buy-downs. The only buy-downs allowed under the DPAP program are (1) one-year interest rate buy-downs under the CHFA program, and (2) interest-rate buy-downs that offer a permanent rate reduction for the life of the first mortgage loan. Lenders must submit a copy of the buy-down agreement and calculation showing the actual cost of the interest rate buy-down. All loans must be delivered at par with no rebate or overage to the originator.

CO-SIGNER RESTRICTIONS

The City loan shall not be used to assist in the purchase of any home in which ownership in the property is granted to any party other than the borrower(s) (participant) approved by the City loan. In some instances, the first mortgage lender may require a co-signer as a condition of the participant's loan approval. When co-signers are required, such co-signers...
cannot hold title to the property being purchased with DPAP assistance. Co-signers must sign the City's Promissory Note, as they, along with the borrower(s), will be held equally responsible for repayment of the City loan. Co-signers, as used in this section, are non-household members. As such, co-signers' income and other criteria (e.g., real estate ownership) are not considered in determining the household's eligibility. The City reserves the right to request co-signer information supplied to the first mortgage lender as part of the loan application.

**HOMEBUYER COUNSELING WORKSHOP**

Program participants will be required to complete a homebuyer-counseling workshop from an agency approved by the City.

The purpose of the workshop is to provide the homebuyer with step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them on how to obtain mortgage financing they can afford. Subjects covered include shopping for a home, shopping for a mortgage loan, home maintenance, and budgeting, and on-going financial costs.

The workshop provider upon the participant's completion of the class will issue a certificate of completion. Participant must present the certificate (evidence of program completion) to the City of Modesto for inclusion in the City DPAP loan application. The workshop provider may charge participants a nominal fee. This fee is non-refundable and is not reimbursable as an eligible closing cost.

**PROFESSIONAL HOME INSPECTION**

To give homebuyers a better understanding of the quality and condition of their future home, the City requires that all existing homes considered for purchase have a professional home inspection.

Real estate purchase agreements must contain a 17-days right of rescission to review the results of the home inspection.

Professional home inspections generally cover the inspection of items such as the home's foundation, drainage, attic, crawl space, electrical systems, walls, heating, floors, roof, tiling, painting, siding, plumbing, insulation, porches, patios, decks, hot water heaters, fireplaces, kitchens, appliances, garages, baths, overview of the site, landscaping, retaining walls, and fences.

Participants will be required to select and pay for the home inspection up front. Participants would be reimbursed at close of escrow, with the inspection cost being included in their DPAP loan. Reimbursements for professional home inspections shall not exceed $250. If escrow does not close, the City will not reimburse the participant, the home inspector, or any other party for the cost of the home inspection fee.

**CONDITIONS FOR DISBURSING FUNDS**

Before disbursing any funds the homebuyer must:

1. Meet all the Down Payment Assistance Program eligibility requirements.
2. Execute City loan documents (loan agreement, promissory note, subordinate trust deed) assuring compliance with the applicable requirements of the program.
3. Meet all the conditions outlined in the City conditional letter of credit.
4. Submit all the documents required by the City of Modesto.
5. Secure permanent financing (first mortgage).
APPLICATION PROCESS

1. Prospective homebuyer (Participant) contacts City of Modesto, Parks, Recreation and Neighborhoods, at (209) 577-5247 to see if they meet basic program qualifications. Participant completes homebuyer-counseling workshop and has the voucher certified by a workshop provider.

2. Participant must provide to the City a Certificate of Completion of the homebuyer-counseling workshop.

3. Participant works with a lender to apply for a first mortgage and to complete a DPAP application. While qualifying the participant for a first mortgage, the lender will also assist them in completing the DPAP application, verify the information, and submit the complete loan application package to the City for approval.

4. Staff will review application and prepare proper documents to submit loan to the loan committee for pre-qualification.

5. Participant shops for a home. A real estate agent can assist participant in selecting a home, and will execute a purchase contract and determine if household has adequate resources to qualify for a loan. The purchase offer will allow for a 17-day review of home inspection report. Participant is not obligated to use the lender referred to by the real estate agent. Any reputable lender can participate in the program.

6. Upon approval of the DPAP application, the City will issue a conditional letter of commitment good for 45 days from the date of issuance.

7. Staff will prepare the necessary loan documents for the silent subordinate mortgage.

8. Staff will schedule an appointment and will meet with applicant(s) to sign loan documents.

9. The down payment assistance funds will be provided to a title company at escrow, to be applied toward the purchase of the home.

10. Escrow agent shall record the City’s Deed of Trust, the Declaration of Conditions, Covenants and Restrictions and send original documents to the City of Modesto within seven (7) working days from the date of closure.

11. If there are any cancellations or disqualifications of the first mortgage loan the lender shall immediately notify the City in writing and shall include the reason for this action.

12. Any material change in income, assets, household composition, or other eligibility determination occurring after application, but prior to closing, shall be immediately reported to the lender and the City for review.

RECERTIFICATION

1. Annual:
   - Borrower shall be required to submit an annual affidavit of occupancy;
   - Lender shall, upon receipt provide, City with any Notice of Default on taxes;
   - City shall be named as a beneficiary on hazard insurance policies and shall be notified of modifications or cancellations of insurance coverage.
2. Periodic Recertification:

- The City may require periodic recertification other than at annual where change in occupancy or other circumstances may necessitate and eligibility review.

### VIOLATIONS AND PENALTIES

The acceleration clause shall be invoked if the borrower willfully and knowingly makes a false statement or representation, or knowingly fails to disclose a material fact for the purpose of qualifying for the program, or, in completing certifications, affidavits, or recertification documents. The City shall demand full repayment of principal and interest rate from the date of violation.

### DEBT RATIO'S GUIDELINES

Following are the two types of debt ratios the City of Modesto will use:

- **Front-End Ratio:** The standard guideline is 29%. The front-end ratio is the gross income divided by the new PITI (Principal, interest, taxes and insurance) mortgage payment.

  The typical debts used to determine the qualifying front-end ratios are the current and or future house payment.

- **Back-end ratio:** The standard guideline is 41%. This is the gross income divided by the new PITI mortgage payment and also the minimum monthly payments from the applicant’s liabilities.

  The typical debts used to determine the qualifying back-end ratios’ are the minimum required monthly payments on all of the following:

  - Auto loans
  - Student loans
  - Personal loans
  - Charge cards
  - Child Support
  - Alimony
  - Federal Tax Lien Repayment Schedules

### DETERMINING ANNUAL INCOME

Section 8 income guidelines are used to calculate annual income to determine program eligibility. Annual income is defined as the “gross” amount of income of all adult household members, which are anticipated to be received during the coming 12-month period. The following definitions are key to understanding the requirements for calculating Annual Income.

1. **Gross amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.

2. **Income of all adult household members.** The definition of Annual Income contains income “inclusions”—types of income to be counted—and income “exclusions”—types of income that are not considered (e.g., income of minors); and

3. **Anticipated to be received.** Annual income is used to determine eligibility and a household’s expected ability to pay, rather than past earnings, are used to estimate housing assistance needs.
The following items shall be included in determining Annual Income:

1. All wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services (before any payroll deduction);
2. Net income from the operation of a business or profession;
3. Interest, dividends, and other net income of any kind from real or personal property. Income shall include the greater of the actual income derived from all assets or a percentage of such assets based on the current passbook saving rate, as determined by HUD.
4. Lottery winnings paid in periodic payments.
5. All gross periodic payments received from Social Security, annuities, insurance policies, retirement funds, pension, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (except Social Security).
6. Payments in lieu of earnings such as unemployment, worker's compensation and severance pay;
7. Welfare assistance;
8. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
9. All regular pay, special pay, and allowances of a member of the Armed Forces.

The following items shall be excluded in determining Annual Income:

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payment received for the care of foster children.
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses.
4. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
5. Income of a live-in aide.
6. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, material, supplies, transportation, and miscellaneous personal expenses of the student.
7. The special pay to a family member serving in the armed forces who is exposed to hostile fire.
8. Amounts received under training programs funded by HUD.
9. Temporary, nonrecurring, or sporadic income (including gifts).
10. Lump sum payment of SSI and Social Security benefits.
11. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act.
DOCUMENTS NEEDED TO PRE-QUALIFY FOR THE DPAP

The loan approval process depends on the applicant’s documentation. To insure a smooth transaction, it is imperative that the applicants have all their documents gathered prior to the initial loan application. Following is a list of all the documents they will need.

1. **Down Payment Assistance Application**

2. **Employment Information:**
   - Most recent two years complete tax returns with all schedules.
   - Most recent two years W-2’s, 1099’s, etc.
   - Most recent pay stubs covering one-month period.
   - Verification of Employment for all adults wage earners in the applicant’s household.
   - If applicable: Self-employed will need three years tax returns and YTD Profit & Loss Statement.
   - If applicable: Statement under penalty of perjury of unemployment status for unemployed adults.

3. **Savings Information:**
   - Most recent three months complete bank statements for any and all accounts with all pages.
   - Most recent statement from retirement, 401k, mutual funds, money market, stocks, etc.
   - If you are receiving a “gift”, you must provide the complete paper trail of the money’s being given to you. Typically we will need the person’s bank statement that is giving you the money.
   - Documentation of other income sources and asset information.

4. **Credit Information:**
   - Most recent statements from your bills, indicating minimum payment and account numbers.
   - Name, address and phone number of your landlord or 12 months cancelled rent checks.
   - If applicable: should you have no credit. Copies or your most recent utility bills will be needed.
   - If applicable: copy of complete Bankruptcy and discharge papers.
   - If applicable: if you co-signed for a mortgage, car, credit card, etc. need 12 months cancelled checks, front and rear, indicating you are not making payments.
   - Copy of drivers license
   - Copy of Social security card
   - If applicable: Copy of complete Divorce, Palimony, Alimony papers
   - If applicable: copy of green card or work permit

5. **First Mortgage Loan Documents**
   - Copy of Credit Reports (for each adult applicant). First Mortgage loan application loan application, signed by lender and applicant
   - Good Faith Estimate of settlement charges.
   - Truth in Lending Disclosure Statement.
   - Mortgage Credit Analysis worksheet.
   - If applicable: for FHA loans include case number.
   - If applicable: Copy of CHFA Buy down agreement.

DOCUMENTS NEEDED AFTER PRE-QUALIFICATION

After pre-qualifying for the DPAP and before disbursement of funds, applicant(s) have 30 days to submit the following documentation:

1. **First Mortgage Loan Documents**
   - Copy of the California Residential Purchase Agreement and Joint Escrow Instructions signed by the buyer and the seller. If applicable copy of the attachments/amendments.
   - Copy of current appraisal and legal description.
   - First Mortgage approval letter with any conditions attached.

2. **Reports**
   - Home Inspection Report
   - Termite Pest Control Report
If the home was built before 1978 please submit a Lead Based Paint Inspection Report.

NOTE: The mortgage lender must submit the HUD-1 report to the City of Modesto within 5 days of closing of escrow.

EQUAL CREDIT OPPORTUNITY ACT

This Down Payment Assistance Program will be implemented in ways consistent with the City of Modesto's commitment to Fair Housing. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under the program on the basis of race, color, ancestry, religion, sex, marital status, physical or mental disability (including AIDS and HIV diagnosis), national origin, familial status (children), age, sexual orientation, source of income or other arbitrary reason.

CONFLICTS OF INTEREST

In accordance to title 24, Section 570.611 of the Code of the Federal Regulations, no member of the governing body and no official, employee or agent of the local government, nor any other person who exercises policy or decision-making responsibilities (including members of the loan committee and officers, employees and agents of the loan committee, the administrative agent, contractors and similar agencies) in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program.
A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR FINANCING AND CONSTRUCTION OF MILLER POINTE APARTMENTS, LOCATED AT THE SOUTHWEST CORNER OF MILLER AVENUE AND RIVERSIDE DRIVE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT.

WHEREAS, on December 28, 2001, the Housing Authority submitted an application for HOME funds for the Miller Pointe project, and

WHEREAS, on April 9, 2002, the City Council by Resolution No. 2002-168 approved an allocation of $250,000 in HOME funds for the development of Miller Pointe, and

WHEREAS, this allocation along with other funding sources was estimated to be enough to complete the 16-unit apartment complex, and

WHEREAS, after the Housing Authority’s bid opening on June 24, 2003, it was revealed that the lowest responsible bid was approximately $600,000 higher than originally budgeted, and

WHEREAS, on September 12, 2003, the Housing Authority of the County of Stanislaus submitted a request for the City Council to consider and approve a Cooperative Agreement which is not financially binding on the City, but will assist the Housing Authority’s efforts in pursuing bond financing for this project, and

WHEREAS, the Cooperative Agreement serves to assure the Housing Authority that the City will assist in conducting the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) public hearing for the Authority’s bond financing, which is required in a community whenever the sale of bonds is planned, and
WHEREAS, the City Council is the only authority to conduct TEFRA public hearings for projects within its City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Cooperative Agreement between the City of Modesto and the Housing Authority of the County of Stanislaus for financing and construction of Miller Pointe Apartments, located at the southwest corner of Miller Avenue and Riverside Drive.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO APPLY FOR GRANT FUNDS FOR THE PER CAPITA GRANT PROGRAM UNDER THE CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION BOND ACT OF 2002, IN ORDER TO ENCUMBER $873,000 IN AFOREMENTIONED FUNDING

WHEREAS, the people of the State of California have enacted the Per Capita Grant Program which provides funds to meet the urgent need for safe, open and accessible local park and recreation facilities for increased recreational opportunities that provide positive alternatives to social problems, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the grant program, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto’s City Council to certify by resolution the approval of the City of Modesto to apply for the Per Capita Allocation, and

WHEREAS, the City of Modesto will enter into a contract with the State of California, and

WHEREAS, the City of Modesto’s share of the Per Capita funds is $873,000, which the City now desires to encumber,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Parks, Recreation and Neighborhoods Department to apply for grant funds for the Per Capita Program under the Clean Water, Clean Air,
Safe Neighborhood Parks and Coastal Protection Bond Act of 2002, in the amount of $873,000 in Per Capita Funds.

BE IT FURTHER RESOLVED that the City Council appoints the City Manager or his designee as agent to conduct all negotiations, execute and submit all documents to obtain the funding including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of project(s).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-532

A RESOLUTION AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO APPLY FOR GRANT FUNDS FOR THE ROBERTI-Z’BERG-HARRIS BLOCK GRANT PROGRAM UNDER THE CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION BOND ACT OF 2002, IN ORDER TO ENCUMBER $537,781 IN AFOREMENTIONED FUNDING

WHEREAS, the people of the State of California have enacted the Roberti-Z’Berg-Harris Grant Program which provides funds to meet the urgent need for safe, open and accessible local park and recreation facilities for increased recreational opportunities that provide positive alternatives to social problems, and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the grant program, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto’s City Council to certify by resolution the approval of the City of Modesto to apply for the Roberti-Z’Berg-Harris Block Grant Allocation, and

WHEREAS, the City of Modesto will enter into a contract with the State of California, and

WHEREAS, the City of Modesto’s share of the Roberti-Z’Berg-Harris Block Grant funds is $537,781, which the City now desires to encumber,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Parks, Recreation and Neighborhoods Department to apply for grant funds for the Roberti-Z’Berg-Harris Block Grant Program under the
Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002, in the amount of $537,781 in Roberti-Z'Berg-Harris Block Grant Funds.

BE IT FURTHER RESOLVED that the City Council appoints the City Manager or his designee as agent to conduct all negotiations, execute and submit all documents to obtain the funding including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of project(s).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-533

A RESOLUTION APPROVING RE-ALLOCATION OF $40,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING FOR FISCAL YEAR 2003-2004 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND EXECUTE THE AGREEMENTS.

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

WHEREAS, the City receives a Community Development Block Grant (CDBG), and

WHEREAS, the City receives this grant annually because of its population size, number of households living below the poverty level, and the number of housing units that are considered substandard, and

WHEREAS, a maximum of fifteen percent of the City’s available CDBG entitlement grant may be allocated to nonprofit organizations for the purposes of providing assistance that is consistent with the functions of CDBG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, in Fiscal Year 2003-2004, fifteen percent of the City’s available CDBG entitlement is $433,500, and

WHEREAS, the Modesto City Council passed a resolution (Resolution No. 2003-68) on February 4, 2003, approving an allocation of $150,000 in CDBG public service funds to the Modesto Police Department for the operation of the Crime Free Multi-Housing Program, and
WHEREAS, the Modesto City Council passed a resolution (Resolution No. 2003-184) on April 8, 2003, approving an allocation of $190,745 in CDBG funding requests for FY 2003-2004, and

WHEREAS, on May 13, 2003, the Modesto City Council passed a resolution (Resolution No. 2003-238) approving the allocation of $69,888 in CDBG funding, and

WHEREAS, on April 8, 2003, the Modesto City Council also passed a resolution approving the balance of $22,867 of CDBG to be allocated through a second RFP process, and

WHEREAS, on June 10, 2003, the Modesto City Council passed a resolution (Resolution No. 2003-283) awarding the balance of $22,867, and

WHEREAS, staff has received notification that $40,427 in previously awarded funding for an After-School Learning Program at Orville Wright School, is now available for re-allocation, and

WHEREAS, Modesto City Schools 21st Century Afterschool Learning Program has submitted a letter proposing to undertake this program, and

WHEREAS, at its August 22, 2003, meeting, the Citizens Housing and Community Development Committee supported re-allocation of $40,000 to the Modesto City Schools 21st Century Afterschool Learning Program for an After-School Learning Program at Orville Wright School, and

WHEREAS, the balance of $427 in available funds will be held in the public service grant account to pool with any other unused funds for future funding,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the re-allocation of $40,000 in Fiscal Year 2003-2004 CDBG funding to Modesto City Schools 21st Century Afterschool Learning Program.

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 implementation of the re-allocation of Fiscal Year 2003-2004 CDBG Public Service Grant funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None.

Attest:        JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:      MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-534

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

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

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classification:

Executive Secretary

The job specification for this classification is being amended as a result of updating the job specification in anticipation of opening a recruitment. The specification for the classification of Executive Secretary, as shown on the attached Exhibit “A”, which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after October 7, 2003.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
EXECUTIVE SECRETARY

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

DEFINITION

To perform a variety of highly responsible, confidential and complex administrative/secretarial duties for a Department Director and/or a Deputy City Manager.

DISTINGUISHING CHARACTERISTICS

The work in this class is distinguished by the high level of administrative assistance and technical support to an Executive and at the Executive’s direction, to other senior managers.

Positions at this level are characterized by the requirement for in-depth comprehensive knowledge of the functions of the assigned Department and the City at large.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Department Director and/or Deputy City Manager.

May exercise direct supervision over clerical and other staff in assigned area.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Perform a wide variety of highly responsible, complex and confidential duties in support of the administration of a department or specific functional area.

Respond to calls and visitors with tact and diplomacy; respond to requests for sensitive information and assistance; resolve citizen concerns and complaints. Maintain liaison with city officials and staff, officials and staff of other agencies, and the
public, to obtain and relay information and coordinate activities.

Represent the department at staff and administrative meetings, committees, and related meetings.

Interpret and apply City policies, procedures, and administrative directives, and communicate laws and regulations in response to inquiries or complaints; refer inquiries as appropriate.

Evaluate new and existing legal, administrative and other requirements and may draft policies and procedures to ensure compliance and overall effectiveness of staff operations.

Maintain awareness of current issues in assigned areas of responsibility.

Research data and compile information to be used in special projects and comprehensive reports.

In the absence of the Department Manager, may sort and distribute time sensitive or confidential mail for follow-up as necessary. Independently respond to letters, electronic communication and general correspondence on behalf of the Department.

Coordinate and make travel arrangements for a Department Director, Deputy City Manager and key staff. Maintain appointment schedules and calendars. Organize and arrange meetings, conferences and civic functions.

Prepare and assemble reports, manuals, newsletters and other materials and distribute to staff.

Develop, maintain and archive a variety of files and records for information related to a department; maintain manuals and update resource materials.

Plan, prioritize, assign, supervise and review the work of a Department's support staff. Participate in the recommendation of the appointment of personnel; provide or coordinate staff training; work with employees to improve performance; implement disciplinary procedures as necessary.

Evaluate, develop, implement and maintain systems and procedures for the efficient operation of assigned area including recommendations for procedural changes affecting staff.
Participate in budget preparation and administration; prepare cost estimates for budget recommendations; submit justifications for budget items; monitor and control expenditures.

Prepare, distribute, and post agendas and minutes for a variety of meetings including Boards, Committees, Commissions, and other civic organizations; provide additional administrative support as necessary which may include the transcription of recorded or written information.

Coordinate the processing of City Council and Council Committee reports.

Marginal Functions:

May be requested to take and transcribe dictation.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:


Modern office management practices and procedures including filing systems management and the operation of a wide variety of office equipment and computer software.

Principles of organization, administration, supervision, training and personnel management.

Principles and procedures of fiscal and statistical record keeping and budget preparation and administration.

Applicable Federal, State, and local laws, codes, programs and regulations.

Functions and organization of municipal government.

Complex filing systems management and document administration.
Skill in:

Interpreting and applying administrative and departmental policies, procedures, laws and regulations.

Working cooperatively with other departments, City officials, outside agencies and members of the public.

Performing responsible and difficult administrative/secretarial work involving the use of independent judgment and personal initiative.

Understanding the organization and operation of the City and of outside agencies as necessary to assume assigned responsibilities.

Analyzing office operations and technical problems, evaluating alternatives and recommending solutions.

Compiling and maintaining complex and extensive records and preparing a variety of reports.

Maintaining confidential data and information for executive staff.

Independently prepare a wide variety of correspondence, brochures, spreadsheets and other materials.

Working independently in the absence of supervision and exercising sound independent judgment within general policy guidelines.

Operating and using modern office equipment including a computer and related software.

Typing, word processing and taking and transcribing dictation at a speed necessary for successful job performance.

Communicating clearly and concisely, both orally and in writing.

Establishing and maintaining cooperative working relationships with those contacted in the course of work.
EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

Three years of increasingly responsible administrative/clerical experience of a complex nature. One year of the required experience must include supervisory or lead responsibility.

Training:

Equivalent to graduation from high school or G.E.D. equivalent supplemented by college coursework in office management, computer technology or a related field.

Other Requirements:

Upon appointment specified positions must possess a valid California Driver's License and have a satisfactory driving record; and/or be able to pass a background investigation. After appointment, those specific positions must maintain a valid California Driver's License.

WORKING CONDITIONS

Environmental Conditions:

Office environment; specified positions may be required to work some evening meetings or early mornings to set-up for meetings.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.
MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 535

A RESOLUTION ACCEPTING A GRANT ENTITLED “CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN” FROM THE STATE OFFICE OF TRAFFIC SAFETY FOR THE GOAL OF INCREASING STATEWIDE SEAT BELT USE TO 94 PERCENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as California Seat Belt Compliance Campaign from the State Office of Traffic Safety (hereafter referred to as OTS), and

WHEREAS, the goal of the grant is to increase statewide seat belt use to 94 percent by the year 2004 through the combined efforts of the California Highway Patrol, the State Office of Traffic Safety and local law enforcement, and

WHEREAS, the monies provided in this grant will provide for overtime police personnel for seat belt enforcement during the two week long mobilization period of November 17 – 30, 2003, and

WHEREAS, there is no required City match for this program and all costs are paid for by funds from the State,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a grant from the State Office of Traffic Safety to participate in the California Seat Belt Compliance Campaign, and

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is authorized, to execute the grant contract with OTS, including any extensions or amendments thereof and any subsequent contract with the State of California.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of September, 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-536

A RESOLUTION AMENDING THE FISCAL YEAR 2003/2004 ANNUAL BUDGET ESTIMATING REVENUE AND APPROPRIATING FUNDS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as California Seat Belt Compliance Campaign from the State Office of Traffic Safety, and

WHEREAS, the goal of the grant is to increase statewide seat belt use to 94 percent by the year 2004 through the combined efforts of the California Highway Patrol, the State Office of Traffic Safety and local law enforcement, and

WHEREAS, the monies provided in this grant will provide for overtime police personnel for seat belt enforcement during the two week long mobilization period of November 17 – 30, 2003, and

WHEREAS, there is no required City match for this program and all costs are paid for by funds from the State,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that to initiate this grant project the 2003/2004 Annual Budget is hereby amended as indicated below:

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</table>

This Resolution was Rescinded by Modesto City Council Resolution NO. 2004-278 2003-536
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 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-537

A RESOLUTION DENYING THE APPEAL OF JOHN AND CAROLYN BRONOWSKI TO A BOARD OF ZONING ADJUSTMENT DECISION DENYING THE APPEAL OF JOHN AND CAROLYN BRONOWSKI TO A STAFF DECISION APPROVING A SECOND-STORY ADDITION TO A HOME LOCATED AT 928 ENSLEN AVENUE.

WHEREAS, Section 10-2.508(b) requires plot plan review by the Community and Economic Development Director for second-story additions to homes in existing residential areas in the R-1 Zone, and

WHEREAS, on June 10, 2003, John C. Williams submitted a plot plan and elevations for a second-story addition to a home at 928 Enslen Avenue, and

WHEREAS, on July 11, 2003, the Community and Economic Development Director issued a letter to the applicant and adjoining property owners approving the second-story addition, and

WHEREAS, on July 25, 2003, John and Carolyn Bronowski filed an appeal to the decision to the Board of Zoning Adjustment pursuant to Section 10-2.2801 of the Municipal Code, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 28, 2003, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which meeting evidence both oral and documentary was received and considered, and

WHEREAS, by Resolution No. 2003-17, the Board of Zoning Adjustment denied the appeal of John and Carolyn Bronowski and approved the second-story addition to the home located at 928 Enslen Avenue on August 28, 2003, and
WHEREAS, an appeal to the decision of the Board of Zoning Adjustment was filed with the Office of the City Clerk by John and Carolyn Bronowski on September 8, 2003, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council to be held on October 7, 2003, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time said public hearing was held, and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council of the City of Modesto found and determined that said appeal to the decision of the Board of Zoning Adjustment should be denied and the decision of the Board of Zoning Adjustment should be affirmed because the proposed second-story addition meets all City Standards contained in Section 10-2.508 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of John and Carolyn Bronowski to a Board of Zoning Adjustment decision denying the appeal of John and Carolyn Bronowski to a staff decision approving a second-story addition to a home located at 928 Enslen Avenue is denied, and the decision of the Board of Zoning Adjustment is hereby affirmed for the reason set forth above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, 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: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-538

A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO IRRIGATION DISTRICT RELATING TO THE ADVANCE FUNDING OF COSTS RELATED TO THE PHASE 2 EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion, and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID agree that the preliminary costs should be included in the project costs to be financed at a later date, and

WHEREAS, MID agrees to initially fund certain costs related to preliminary work for the project, and

WHEREAS, City agrees that MID should be reimbursed for certain costs related to preliminary work for the project, and

WHEREAS, City and MID agree that the preliminary costs shall be shared and reimbursed as summarized in Exhibit “A” attached hereto and incorporated herein by this reference, and
WHEREAS, the Economic Development Committee recommended approval of the Agreement at its August 11, 2003 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement relating to the advance funding of costs related to the Phase 2 Expansion of the Modesto Regional Water Treatment Plant authorizes the City Manager to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Sabatino, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
### Exhibit "A"

#### ESTIMATED PROJECT COSTS

**ADVANCED BY MID**

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<th>ITEM</th>
<th>ESTIMATED TOTAL COST</th>
<th>AMOUNT PAID OR TO BE PAID DIRECTLY BY THE CITY</th>
<th>AMOUNT ADVANCED BY MID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Outreach Program</td>
<td>$30,000</td>
<td>$15,000</td>
<td>$15,000</td>
</tr>
<tr>
<td>MID Labor Cost &amp; Expenses</td>
<td>TBD*</td>
<td>-</td>
<td>TBD*</td>
</tr>
<tr>
<td>Initial Environmental Review</td>
<td>$12,000</td>
<td>-</td>
<td>$12,000</td>
</tr>
<tr>
<td>(Insite Environmental)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Documentation</td>
<td>$170,000</td>
<td>-</td>
<td>$170,000</td>
</tr>
<tr>
<td>(Jones &amp; Stokes)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminary Study (Black &amp; Veatch)</td>
<td>$120,000</td>
<td>$60,000</td>
<td>$60,000</td>
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<tr>
<td>Preliminary Engineering Design</td>
<td>$750,000</td>
<td>-</td>
<td>$750,000</td>
</tr>
<tr>
<td>(Black &amp; Veatch)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount to be Reimbursed by the City of Modesto**</td>
<td></td>
<td></td>
<td>$1,007,000 plus TBD Costs</td>
</tr>
</tbody>
</table>

*TBD - To be determined at a future date

** Amounts advanced by MID shall be reimbursed by the City of Modesto at a future date through the Project's financing.
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-539

A RESOLUTION AUTHORIZING MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT IN AN AMOUNT NOT TO EXCEED $170,000 WITH JONES AND STOKES TO PROVIDE CEQA SERVICES RELATED TO THE PHASE 2 EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT.

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion, and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the MRWTP Phase 2 Expansion, and

WHEREAS, Council has authorized the City Manager to execute an agreement with MID relating to the advance funding of costs related to the MRWTP Phase 2 Expansion, and

WHEREAS, the aforementioned agreement requires MID to obtain City authorization to proceed beyond certain milestones in MRWTP Phase 2 Expansion, and

WHEREAS, MID issued a request for proposals for CEQA services for the MRWTP Phase 2 Expansion, and

WHEREAS, On May 21, 2003, five proposals were received from environmental consulting firms in response to a Request for Proposals solicited by MID staff, and
WHEREAS, a task force was formed consisting of both City and MID staff, which reviewed each of the proposals for compliance with the project's scope of work and all five of the responding firms were interviewed on June 6, 2003, by the task force, and

WHEREAS, the task force selected Jones and Stokes as the firm most qualified to provide CEQA services for the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID staff have reviewed the proposed scope of work for the proposed services, set forth in Attachment "A" attached hereto and incorporated by this reference, and agree they are appropriate for the MRWTP Phase 2 Expansion, and

WHEREAS, MID has negotiated a reasonable fee for the services to be provided not to exceed $170,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an agreement in an amount not to exceed $170,000 with Jones and Stokes to provide CEQA services related to the Phase 2 Expansion of the Modesto Regional Water Treatment Plant.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Sabatino, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
### Table 1. Jones & Stokes Cost Estimate for Phase 2 Expansion of the Modesto Regional WTP SEIR

<table>
<thead>
<tr>
<th>Task</th>
<th>Principal</th>
<th>Env Sr</th>
<th>Env Plat Sr</th>
<th>Env Sr Sr</th>
<th>Env Spec II</th>
<th>Env Spec III</th>
<th>Subtotal</th>
<th>Tech</th>
<th>Graphi</th>
<th>Admin</th>
<th>Labor</th>
<th>Direct</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prepare for and Attend Startup Meeting and Compile Information</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>5</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
</tr>
<tr>
<td>2. Prepare Extended Initial Study/Notice of Preparation and Project Scoping</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
</tr>
<tr>
<td>3. Prepare Administrative Draft SEIR</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
</tr>
<tr>
<td>4. Prepare Final SEIR</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
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</tr>
<tr>
<td>5.1 Prepare Administrative Draft Final SEIR</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
</tr>
<tr>
<td>5.2 Prepare Final SEIR</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
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<tr>
<td>6. Prepare Mitigation and Monitoring Plan</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
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<tr>
<td>7. Attend Meetings</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
</tr>
<tr>
<td>8. Project Management</td>
<td>8</td>
<td>24</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>48</td>
<td>6</td>
<td>12</td>
<td>$2,630</td>
<td></td>
<td></td>
<td>$2,630</td>
<td></td>
</tr>
</tbody>
</table>

**Billable Costs:** $15,128

**Non-Billable Costs:**

- Reproductions: $2,860
- Postage: $450
- Travel, Auto, Incld. Mileage: $270
- Per Diem: $500
- Project Supplies: $480

**Total Price:** $170,000
A RESOLUTION AUTHORIZING MODESTO IRRIGATION DISTRICT TO EXECUTE AN AGREEMENT IN AN AMOUNT NOT TO EXCEED $750,000 WITH BLACK AND VEATCH TO PROVIDE PELIMINARY ENGINEERING RELATED TO THE PHASE 2 EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT.

WHEREAS, the Council of the City of Modesto approved Resolution No. 92-183 on April 21, 1992, authorizing the original Treatment and Delivery Agreement with the Modesto Irrigation District (MID) and the former Del Este Water Company, and

WHEREAS, the original Treatment and Delivery Agreement contemplated the design, construction, and operation of the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion, and

WHEREAS, City and MID wish to pursue the design, construction, and operation of the MRWTP Phase 2 Expansion, and

WHEREAS, Council has authorized the City Manager to execute an agreement with MID relating to the advance funding of costs related to the MRWTP Phase 2 Expansion, and

WHEREAS, the aforementioned agreement requires MID to obtain City authorization to proceed beyond certain milestones in MRWTP Phase 2 Expansion, and

WHEREAS, MID issued a request for proposals for engineering services for the MRWTP Phase 2 Expansion, and

WHEREAS, three proposals were received from engineering consulting firms in response to a Request for Proposals solicited by MID staff, and
WHEREAS, a task force was formed consisting of both City and MID staff, which reviewed each of the proposals for compliance with the project's scope of work and all three of the responding firms were interviewed on February 21, 2002 by the task force, and

WHEREAS, the task force selected Black and Veatch as the firm most qualified to provide engineering services for the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID staff have reviewed the proposed scope of work for the proposed services, set forth in Attachment “A” attached hereto and incorporated herein by this reference, and agree they are appropriate for the MRWTP Phase 2 Expansion, and

WHEREAS, City and MID staff agree that it is appropriate to proceed with tasks 1.1 through 3.1.7 and tasks 3.1.10, 3.1.11, 3.1.15 and 3.1.18, as shown in Attachment “A”, as well as the project management tasks necessary to perform the aforementioned tasks, and

WHEREAS, MID has negotiated a reasonable fee for the above services to be provided not to exceed $750,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District to execute an agreement in an amount not to exceed $750,000 with Black and Veatch to perform the above tasks related to the Phase 2 Expansion Of The Modesto Regional Water Treatment Plant.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Sabatino, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]

MICHAEL D. MILICH, City Attorney
### Technical Approach - Scope of Work

#### Project Workflow Model Task Descriptions

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Primary Discipline(s)</th>
<th>Inputs (Predecessor Task)</th>
<th>Task/Activity</th>
<th>Outputs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Project Team</td>
<td>Notice to Proceed</td>
<td>Objective of Initial Workshop in 1) Verify Data Needs, 2) Confirm Schedule, 3) Establish Communication Tree, 4) Perform Initial Process Screening, 5) Verify Special Study Requirements, and 6) Develop Project Partnering Charter</td>
<td>Project Kickoff Meeting - Initial Partnering Charter Meeting</td>
</tr>
<tr>
<td>1.3</td>
<td>Project Team</td>
<td>Conceptual Design Studies</td>
<td>Review existing process and evaluation existing and advanced technologies for the main treatment process. In addition to optimizing the existing process, consideration shall be given to dissolved air flotation (DAF). The following data will be provided by the District for Review under this task: District Filter Performance Reports o 5.13.01 – 5.20.01 o 11.03.01 – 11.18.01 o 12.03.01 – 12.10.01 Modesto Regional WTP Pilot Plant Studies o Summaries of pilot plant runs during July-September, 2001. Modesto Regional WTP Increased Filtration Protocol Report Response from DHS to WTP Increased Filtration Protocol Report. Modesto Regional WTP – Partnership Self Assessment E-mail of requested tie-off entry points for fall protection review. E-mail of Maintenance Shop need. Fax copy of City of Modesto Domestic Well Data 1.01.92-1.01.02 o From Lenora Hill, dated 1.17.02. Information provided in RFQ/RFP Water Quality Data for past 3-5 years. From WTP Operations Data, in the form of Access Database and Excel Spreadsheets. Recommendations Section from DHS Operating Permit for the Modesto Domestic Water O&amp;M Staff Records of Electrical Wiring Changes made since Phase I went into commerce.</td>
<td>Technical Memorandum Number 1. TM-1</td>
</tr>
<tr>
<td>1.3.1</td>
<td>Civil, Mechanical</td>
<td>District input, 1.2.</td>
<td>Review existing ozone and sodium hypochlorite feed systems and evaluate process and application. Included in the technical memorandum will be methodologies for expansion including in-line ozone injection, pre- and ozone intermediate ozone, ozone retrofit technologies (LOX vs: air feed, diffusers, baffling and other short circuiting such as drains), and strategies for reducing off-gassing, and improving sampling. An evaluation of two-stage primary disinfection using ozone (pre-) and post filtration UV-light will also be performed. Optional scope item will be to employ Computational Fluid Dynamics (CFD) for design of baffling for the ozone contact basin.</td>
<td>Technical Memorandum Number 2. TM-2</td>
</tr>
<tr>
<td>1.3.2</td>
<td>Civil, Mechanical</td>
<td>District input, 1.2.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Technical Approach - Scope of Work
#### Project Workflow Model Task Descriptions

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Primary Discipline(s)</th>
<th>Inputs (Predecessor Task)</th>
<th>Task/Activity</th>
<th>Outputs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.3.3</td>
<td>Civil, Mechanical Process or Process</td>
<td>District input, 1.2.</td>
<td>Review existing process and evaluation alternatives for improving wash water recovery and treatment performance. Design basis will incorporate addition of filter-to-waste to the recovery system (Water Management Basin). Evaluations will include (separating wastes by quality) process enhancement and conversion to different thickening/separation technologies such as inclined plate settlers, membranes, dissolved air flotation, and ballasted flocc sedimentation (Acti-flo), or enhancement of existing thickeners. This task also provides for recommendations to convert existing solids storage lagoons to solids drying beds.</td>
<td>Technical Memorandum Number 3. TM-3</td>
</tr>
<tr>
<td>1.4.1</td>
<td>Civil, Mechanical Process or Process</td>
<td>District input, 1.3.1 through 1.3.3</td>
<td>Prepare Draft Conceptual Design Report. Report includes Conceptual Level (10-Percent Design) Cost Opinion.</td>
<td>Draft Report</td>
</tr>
<tr>
<td>1.4.2</td>
<td>District, City and QA/QC Comments</td>
<td>Incorporate Review Comments</td>
<td>Review Comment Matrix</td>
<td></td>
</tr>
<tr>
<td>1.4.3</td>
<td>1.4.1, 1.4.2</td>
<td>Prepare Executive Summary</td>
<td>Executive Summary</td>
<td></td>
</tr>
<tr>
<td>1.4.4</td>
<td>1.4.2</td>
<td>Submit 50 Copies of Final Report, 50 extra Executive Summary copies, and 2 CD-Rom Electronic Copies</td>
<td>Final Report</td>
<td></td>
</tr>
<tr>
<td>1.5</td>
<td>Additional Studies</td>
<td>This subtask provides for a reserve fund to perform additional analysis as requested in order to expedite the Conceptual Design. This could include scope and procure documents for special pilot studies, if desired.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Task 2.0 - Preliminary Design-Predesign Studies

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Primary Discipline(s)</th>
<th>Inputs (Predecessor Task)</th>
<th>Task/Activity</th>
<th>Outputs</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.0.1</td>
<td>Civil, Mechanical Process or Process</td>
<td>District input, 1.2.</td>
<td>Review all existing liquid chemical feed systems and confirm basis of design for Phase II needs. Evaluate existing lime/carbon dioxide system and evaluate alternatives to optimize the system for improved operation. Evaluate other stabilization alternatives and provide justification for retaining lime/carbon dioxide. Prepare life-cycle cost comparison for improved hydrated lime/mixing system to that of a slaked Tekkem system. Make final recommendations for implementation.</td>
<td>Technical Memorandum Number 4. TM-4</td>
</tr>
<tr>
<td>2.0.2</td>
<td>Civil, Mechanical Process or Process</td>
<td>District input, 1.2.</td>
<td>Evaluate and recommend alternatives for increasing WTP to 60 mgd. Consider alternatives for future flows above 60mgd. Identify hydraulic limitations in existing Phase I unit processes and make conceptual recommendations for possible improvements to increase hydraulic capacity.</td>
<td>Technical Memorandum Number 5. TM-5</td>
</tr>
<tr>
<td>2.0.3</td>
<td>Civil, Mechanical Process or Process</td>
<td>District input, 1.2.</td>
<td>Evaluate alternatives for maximizing transmission system capacity. This evaluation includes the pump station at the treatment plant site and additional pumping unit at the TRPS site. Optional Scope would be to consider hydraulic base model beyond the TRPS site (distribution side) or improvements necessary to provide service to Empire, CA.</td>
<td>Technical Memorandum Number 6. TM-6</td>
</tr>
<tr>
<td>2.0.4</td>
<td>I&amp;C</td>
<td>District input, 1.2.</td>
<td>Evaluate and recommend modifications to update the WTP Control System. Scope will include inclusion of monitoring/surveillance requirements provided under parallel effort by the District. An Audit for security or threat assessment is not included in this Scope of Work.</td>
<td>Technical Memorandum Number 7. TM-7</td>
</tr>
</tbody>
</table>
# Technical Approach - Scope of Work

## Project Workflow Model Task Descriptions

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Primary Discipline(s)</th>
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<th>Outputs</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.0.5</td>
<td>Electrical</td>
<td>District input, 1.2.</td>
<td>Evaluate the impact of Phase II power needs on the existing power supply. Provide Phase II and other anticipated future electrical leads (such as UV-light disinfection) to the District to assist the District in the evaluation of the need for new District Substation. Evaluate existing standby generator and PCS UPS capacity and make recommendations for Phase II needs.</td>
<td>Technical Memorandum Number 8. TM-8</td>
</tr>
<tr>
<td>2.0.6</td>
<td>Civil, Mechanical Process or Process</td>
<td>District input, 1.2. Information from other major utilities in California. DHS Staffing Requirements</td>
<td>Compile staffing information for other major utilities. Prepare TM on staffing needs by job task.</td>
<td>Technical Memorandum Number 9. TM-9</td>
</tr>
<tr>
<td>2.0.7</td>
<td>Process, Project Engineer</td>
<td>District input, 1.2.</td>
<td>Provide Oversight and Evaluation of the results from Filter Surveillance, performed by District Staff and an independent testing firm, in accordance with AWWARF Filter O&amp;M recommended procedures, including the following: a) A visual inspection of all filters including interior wall cleanliness, condition of filter box trough and valves. b) Provide photographs filters and adjacent areas before and after surveillance c) Distinct all materials, equipment and personal protective equipment that will be in direct contact with the media surface immediately prior to each contact with the media. These will include but not be limited to platforms to walk on the media surface, ladders, core samplers and boots. d) Inspect and sample for mudballs e) Visual inspection for media cracks, mounding and depressions f) Check and calculate filter bed (media) expansion g) Perform surface mapping of support gravel bed and report any migration h) Check freeboard measurements i) Record anthracite levels and estimate loss of media j) Take core samples in accordance with ANSI/AWWA B100-96 and ASTM D75 before and after sampling k) Observe backwash for air scour pattern, patterns and media boils. l) Composite and reduce the sample size (in accordance to ASTM C70) of the core sample m) Check the troughs to determine if they are level n) Perform backwash turbidity profile o) Perform flocc retention analysis according to the guidelines described in the AWWARF p) Perform acid solubility tests on media in accordance with ANSI/AWWA B100-96 q) Perform sieve analysis on media for uniformity coefficient and effective size in accordance with the American Public Health Association r) Perform microscopic evaluation of media for shape, pore size and cleanliness. Provide host employer with a complete report on the entire findings of the inspection.</td>
<td>Workshop with Staff and Letter Report Summarizing Evaluation.</td>
</tr>
<tr>
<td>2.0.8</td>
<td>All</td>
<td>2.0.1 Through 2.0.7</td>
<td>Based on results of TMs developed under this Phase, Revise and publish revised Preliminary Study as Complete Design Report</td>
<td>Design Report</td>
</tr>
</tbody>
</table>

*workplan-revM-091003*

*Black Ve.*

*September 10, 2003 (Ver 8.22.01)*
## Technical Approach - Scope of Work

### Project Workflow Model Task Descriptions

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Primary Discipline(s)</th>
<th>Inputs (Predecessor Task)</th>
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</tr>
</thead>
<tbody>
<tr>
<td>2.1.1</td>
<td>Process or Civil</td>
<td>Treatment Objectives, Loads &amp; Flows, Regulatory Agency Requirements, District Requirements, permit requirements, design criteria, characteristics, and capacities.</td>
<td>Finalize Loads &amp; Flows. Confirm process loads, flows and other parameters needed to effectively model the process and determine major process equipment sizes and ratings.</td>
<td>Conceptual design, preliminary hydraulic profile, process unit types and sizes, conceptual site arrangement, flows and loads list.</td>
</tr>
<tr>
<td>2.1.2</td>
<td>Process or Civil</td>
<td>Process Parameters necessary to run the process designer (2.1.1)</td>
<td>Run Process Model. Run the Cygnet Process Designer to determine design parameters for each item of process equipment. D8</td>
<td>Information necessary to select the number of units for parallel process units, their physical size, and hydraulic capacity.</td>
</tr>
<tr>
<td>2.1.3</td>
<td>Process or Civil</td>
<td>Process Parameters necessary to run the process designer (2.1.1) (2.1.2) Authorization to begin work from Project Manager. Permit Requirements, design criteria, raw water characteristics, plant capacity and existing plant information from District</td>
<td>Select No. of Units and Size. Based on process needs and basic understanding of site restrictions, select the number of units required to meet process requirements and determine their physical size and hydraulic capacity.</td>
<td>Initiate project equipment list by listing of all major process elements, including quantity, size, and capacity.</td>
</tr>
<tr>
<td>2.1.4</td>
<td>Civil</td>
<td>Concept Requirements &amp; Units and Size (2.1.3) Input to establish square footage needs of buildings</td>
<td>Develop Conceptual Site Layout. Block layout of site using Concept Requirements and Process information.</td>
<td>Conceptual site layout for discussing any physical limitations on the Process Design.</td>
</tr>
<tr>
<td>2.1.5</td>
<td>Construction Group</td>
<td>Concept Phase Documents, Process Flow Diagram (2.1.6), Size and Quantity of Process (2.1.3), Conceptual Layout (2.1.4)</td>
<td>Prepare Conceptual Cost Estimate. Develop conceptual opinion of probable cost for all disciplines.</td>
<td>Conceptual opinion of probable cost.</td>
</tr>
<tr>
<td>2.1.6</td>
<td>Civil, Mechanical, Process or Process</td>
<td>Quantity, physical size and hydraulic capacity of major process elements.</td>
<td>Develop Process Flow Diagram (PFD). Lay out the major interconnecting piping among process units in a schematic fashion. (Piping is not sized nor routed on the site in this task.)</td>
<td>Basic process flow diagram, showing process units and interconnecting piping, for use as basis of P&amp;ID</td>
</tr>
<tr>
<td>2.1.7.1</td>
<td>Project Engineer, Structural Engineer, Safety Engineer</td>
<td>Existing Information</td>
<td>Safety Recommendations. A B&amp;V Safety Professional and MID Project Engineer will Meet with MID O &amp; M staff to review safety procedures and observe existing confined space fall protection, egress, and exit systems/facilities currently in place. B&amp;V will observe the facilities that are representative of those indicated on the list provided to B&amp;V on March 11, 2002. B&amp;V will base the assessment and subsequent recommendations on California General Industry Orders, Title 8, Subchapter 7 as follows: Article 6. Powered Platforms and Equipment for Building Maintenance Article 108. Confined Spaces, and Subchapter 4, Construction Safety Orders, Article 24. Fall Protection</td>
<td>Site visit and initial recommendations for improvements in accessibility for existing facilities.</td>
</tr>
</tbody>
</table>
## Technical Approach - Scope of Work
### Project Workflow Model Task Descriptions

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<th>Task No.</th>
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</tr>
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<tbody>
<tr>
<td>2.1.7.2</td>
<td>Project Engineer, Structural Engineer, Safety Engineer</td>
<td>2.1.7.1</td>
<td>Guidance Document and Report. Based on the observations noted over the course of the assessment, B&amp;V will prepare a brief report and guidance document for MID and B&amp;V Structural and Project Engineers for reference during design of improvements to the Treatment Plant Facilities during the expansion project.</td>
<td>The report and guidance document will include digital photographs with explanations of proposed improvements.</td>
</tr>
<tr>
<td>2.2.1</td>
<td>Civil &amp; Mechanical Process</td>
<td>Schematic representation of process flow. (2.1.6)</td>
<td>Select Valve Location and Function. Determine where valves should be located to provide adequate process control and isolation. Determine essential function and type of valves (isolation, flow control, etc.) and locate on PFD</td>
<td>PFD with valves shown in schematic format, list of valves and their essential functions.</td>
</tr>
<tr>
<td>2.2.2</td>
<td>Civil, I&amp;C, &amp; Mechanical Process</td>
<td>Basic PFD (2.1.6)</td>
<td>Indicate Primary I&amp;C Elements. Locate primary instrumentation elements for flow, level, and pressure measurements needed for process control and monitoring</td>
<td>PFD with primary elements shown.</td>
</tr>
<tr>
<td>2.2.3</td>
<td>Civil, I&amp;C, &amp; Mechanical Process</td>
<td>PFD with valves and primary elements shown. (2.2.1, 2.2.2)</td>
<td>Determine Control Strategy. Determine basic process and equipment control needs for process equipment. Establish requirements for automation and remote control based on District requirements.</td>
<td>Definition of control needs for use in developing the control system block diagram</td>
</tr>
<tr>
<td>2.2.4</td>
<td>I&amp;C</td>
<td>Latitude and Longitude and Elevations for Facilities</td>
<td>NOT USED.</td>
<td></td>
</tr>
<tr>
<td>2.2.5</td>
<td>Geotech, Civil</td>
<td>Project Management - Initiate Preliminary Design. Obtain any previous Geotechnical Reports from the District. Obtain Conceptual Site Layout, Regulatory Agency Requirements, Structural Code Requirements, and Subcontract Geotechnical Investigations</td>
<td>Geotechnical Study. Black &amp; Veatch, through subcontract, will provide a geotechnical study for the expansion of the Modesto Regional Water Treatment Plant. The study will include the following: A) Field Reconnaissance including 3 to 4 borings at the proposed WTP expansion location and a survey of sand thickness at the existing solids storage lagoons. B) Laboratory Testing to obtain/confirm engineering properties of materials. C) Engineering Analysis and Evaluations, and D) Preparation of a Geotechnical Report.</td>
<td>Geotechnical Study. 10 Bound Copies of Report, plus camera ready document.</td>
</tr>
<tr>
<td>2.2.6</td>
<td>Civil</td>
<td>Obtain site survey from District, if available or secure subcontract to obtain site survey services as required, Conceptual Site Layout.</td>
<td>Perform Site Survey. Black &amp; Veatch, through subcontract, will provide the following: A) Topographic reconnaissance survey of the WTP site for confirmation of the existing grades of the approximately 4.5-acre site proposed for the construction of the expansion. B) Field survey to identify horizontal and vertical locations of the connection points of the utilities to be extended. C) Perform topographic surveys to field place panels for aerial photography. D) Procure a rectified orthographic photo at a scale of 1 inch = 20 feet.</td>
<td>Site survey Topographic Base Map for Final Design Drawings.</td>
</tr>
<tr>
<td>2.2.7</td>
<td>Civil &amp; Mechanical Process</td>
<td>Process schematic/PFD with valve shown (2.1.6, 2.2.1); hydraulic ratings of process equipment (2.1.3)</td>
<td>Run Preliminary Hydraulics, Size Major Process Pumps, Piping, and Valves. Perform preliminary hydraulic calculations on the process flow schematic to establish conservative sizing for piping, pumps and valves.</td>
<td>Pipe size, pump size, and valve size information for equipment lists. Hydraulic capacity and hydraulic profile.</td>
</tr>
<tr>
<td>2.2.8</td>
<td>I&amp;C</td>
<td>PFD with valves and primary elements shown (2.2.1, 2.2.2), Control strategy definition (2.2.3)</td>
<td>Develop Control System Block Diagram. Develop the control system block diagram showing preliminary arrangement of PLCs, RTUs, computers, and other major control system components. Identify gross or estimated I/O counts for the system.</td>
<td>Control system block diagram and preliminary I/O count.</td>
</tr>
</tbody>
</table>
### Technical Approach - Scope of Work

**Project Workflow Model Task Descriptions**

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<tr>
<td>2.2.9</td>
<td>I&amp;C</td>
<td>Basis of Design Memo PFD with I&amp;C Elements District Preferences</td>
<td>Perform Preliminary Computer Network Design. Develop the preliminary local area network design showing: media types, switches, multiplexers, hubs, termination cabinets, and other LAN components.</td>
<td>Basic Computer Network Design</td>
</tr>
<tr>
<td>2.2.10</td>
<td>Civil &amp; Mechanical Process</td>
<td>Process design criteria for subsystems to support primary process. (2.1.3 &amp; 2.1.6)</td>
<td>Select Equipment for Subsystems. Select system equipment for subsystems (chemical feed, nonpotable water, etc.)</td>
<td>Listing of subsystem equipment, including quantity, equipment size, and applicable ratings.</td>
</tr>
<tr>
<td>2.2.11</td>
<td>Civil &amp; Geotech, Geotechnical Consultant</td>
<td>Geotechnical Investigation Plan, Conceptual Site Layout, and Grading. (2.1.4)</td>
<td>Obtain Preliminary Foundation Recommendations. Obtain preliminary soils information and investigate potential foundation systems.</td>
<td>Preliminary foundation recommendations from Geotechnical Consultant.</td>
</tr>
<tr>
<td>2.2.12</td>
<td>Civil, I&amp;C, Mechanical Process</td>
<td>Piping layout and selection (2.2.2, 2.2.10), location of primary elements, control strategy information (2.2.3), and preliminary pipe, valve and pump sizes (2.2.7).</td>
<td>Produce Preliminary Process and Sub-Process P&amp;IDs. Produce P&amp;IDs illustrating process flow with types and quantities of process elements, preliminary line sizing, primary element functions, I/O connections, and general control strategy.</td>
<td>Produce P&amp;ID for major system and for subsystems with initial I/O connections.</td>
</tr>
<tr>
<td>2.2.13</td>
<td>Civil, I&amp;C &amp; Mechanical Process</td>
<td>Number and size of process units (2.1.3); Number and size of subsystem units (2.2.10); valve and primary element information (2.2.2, 2.2.1-1); Block diagrams/schematic design information for I&amp;C systems (2.2.8).</td>
<td>Generate Equipment Lists. Generate lists of all major process equipment, subsystem components, including related valves, primary elements, and control system components.</td>
<td>Update equipment lists for design development deliverable; information for SPEC data sheets.</td>
</tr>
<tr>
<td>2.2.14</td>
<td>Civil</td>
<td>District requirements and objectives from Design Definition information</td>
<td>Produce Front-end Documents or Terms or Conditions. Develop Acept the District Construction Contract front-end documents or contract terms and conditions.</td>
<td>Front end documents or contract terms and conditions ready for District review. Provide feedback to the District on Front Documents and propose text for Supplemental Conditions Section.</td>
</tr>
<tr>
<td>2.2.15</td>
<td>Civil, I&amp;C &amp; Mechanical Process</td>
<td>P&amp;ID drawings illustrating project scope and design basis. (2.2.12); Equipment List. (2.2.13); Completed SPEC data sheets. (2.2.16)</td>
<td>Prepare Final Control Strategy. Finalize process and equipment control needs for process equipment. Establish requirements for automation and remote control based on District requirements.</td>
<td>Definition of control needs for use in developing the electrical schematics, major specifications, and minor specifications.</td>
</tr>
<tr>
<td>2.2.16</td>
<td>Civil, I&amp;C &amp; Mechanical Process</td>
<td>Number and size of process units (2.1.3); Number and size of subsystem units (2.2.10); valve and primary element information (2.2.2, 2.2.3); Block diagrams/schematic design information I&amp;C systems (2.2.11)</td>
<td>Define and Distribute Preliminary Process Equipment Information. Identify and distribute minimum required information about all equipment and systems defined in this phase. Information shall be the minimum required for other design groups to proceed with their scheduled design activities through the next project phase.</td>
<td>System and equipment data and information.</td>
</tr>
</tbody>
</table>
### Technical Approach - Scope of Work

#### Project Workflow Model Task Descriptions

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<tr>
<td>2.2.17</td>
<td>Architect</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Prepare Architectural Program. Program includes gross building space requirements; room/space listing, special requirements, height, and usage of each space; District's architectural expectations and visual statement. Describe aesthetic requirements. General description of building systems and materials. Site impacts are described. Building code requirements and handicapped accessibility requirements included.</td>
<td>Architectural Program. Written text with tabulated space listing. Architectural renderings, presentations, or 3D modeling efforts may be required at this time to support District decision-making during review of the Basis of Design Memo.</td>
</tr>
<tr>
<td>2.2.18</td>
<td>I&amp;C</td>
<td>General design criteria, District requirements</td>
<td>Prepare Preliminary Software Control Descriptions.</td>
<td>Level of Automation for process equipment</td>
</tr>
<tr>
<td>2.2.19</td>
<td>I&amp;C</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Write I&amp;C Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.</td>
<td>Basis of Design Memo</td>
</tr>
<tr>
<td>2.2.20</td>
<td>Electrical</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Write Electrical Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.</td>
<td>Basis of Design Memo</td>
</tr>
<tr>
<td>2.2.21</td>
<td>Architect</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Write Architectural Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.</td>
<td>Basis of Design Memo</td>
</tr>
<tr>
<td>2.2.22</td>
<td>Structural</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Write Structural Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.</td>
<td>Basis of Design Memo</td>
</tr>
<tr>
<td>2.2.23</td>
<td>Mechanical Process, Civil</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Write Mechanical Process Text for Basis of Design Memo. Standard Discipline text and Chemical Feed text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.</td>
<td>Basis of Design Memo</td>
</tr>
<tr>
<td>2.2.24</td>
<td>Civil</td>
<td>General design criteria, District requirements, and budgetary expectations (Concept Phase)</td>
<td>Write Project/Civil Text for Basis of Design Memo. Standard Discipline text related to code, conventions, and level of design effort for inclusion in the Basis of Design Discipline Section.</td>
<td>Basis of Design Memo</td>
</tr>
<tr>
<td>2.3</td>
<td>All</td>
<td>Basis of Design for each Discipline (2.2.19, 2.2.20, 2.2.21, 2.2.22, 2.2.23, and 2.2.24)</td>
<td>Plan Review Initiation. Attend a meeting at District offices and provide 10 copies of basis of design information for independent plan check review team.</td>
<td>Plan Check Review</td>
</tr>
<tr>
<td>2.4</td>
<td>Additional Studies</td>
<td>This subtask provides for a reserve fund to perform additional analysis as requested in order to expedite the Preliminary Design</td>
<td>District Contingency Fund for Preliminary Design Phase.</td>
<td></td>
</tr>
</tbody>
</table>

#### Task 3.1. - Detailed Design-Spatial Design Level 1

| 3.1.1    | Civil & Architect      | Equipment Lists and SPEC Data Sheets which include major process equipment (2.2.12, 2.2.16) existing site information (2.2.11). | Locate Major Process Structures on Site. Locate and arrange major process elements and buildings to produce a general arrangement site plan. | Preliminary site plan showing location of major process equipment not housed in buildings |
| 3.1.2    | Civil, Mechanical Process & Structural | Equipment Lists which include major process equipment and SPEC data sheets (2.2.12, 2.2.13, 2.2.16) | Establish Space Allocations for Major Process Equipment, Subprocess Equipment, Piping and Basins. Establish space requirements for major process elements on the site and within planned structures & determine major interconnections of process piping. | Space allocation needs and general arrangements for major process equipment, tanks, basins, and chemical storage. Sketch plans. Concepts for basin and tank construction. |
## Technical Approach - Scope of Work
### Project Workflow Model Task Descriptions

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<tr>
<td>3.1.3</td>
<td>Architect</td>
<td>Architectural program and space allocations for major equipment</td>
<td>Establish Space Allocations for Personnel. Establish space requirements for personnel spaces within planted structures, including egress and accessibility requirements. Identify concepts for roof drainage and building construction.</td>
<td>Arrangements for personnel spaces, corridors, and exits. Stick plans. Concepts for roof drainage and building construction.</td>
</tr>
<tr>
<td>3.1.4</td>
<td>Civil</td>
<td>Location and arrangement of major process elements on the site and within buildings (3.1.1, 3.1.2)</td>
<td>Identify Major Points of Connection Between Processes and Buildings. Establish the orientation of buildings and process equipment to determine the location and routing of major piping.</td>
<td>Space requirements and routing for major piping. Location of piping interfaces to buildings.</td>
</tr>
<tr>
<td>3.1.5</td>
<td>Mechanical Building and Electrical</td>
<td>Equipment Lists and SPEC data sheets which include major process equipment (2.2.13, 2.2.16); Allocation of space for Process Equipment &amp; Personnel (3.1.2, 3.1.3), Process Text for Basis of Design Criteria (3.1.8)</td>
<td>Estimate Space Allocations for Electrical/Mechanical Equipment. Consult on space requirements for major electrical and mechanical building systems/HVAC, plumbing, fire protection equipment within buildings and on the site.</td>
<td>Preliminary space allocation needs for mechanical building systems and electrical equipment on the site and within structures.</td>
</tr>
<tr>
<td>3.1.6</td>
<td>I&amp;C</td>
<td>Preliminary Floor Plans (3.1.6)</td>
<td>Identify Space Needs for Control Equipment. Use catalogs and similar projects to derive spatial needs for control equipment; such as cabinets, control panels, etc.</td>
<td>Preliminary space allocation needs for control equipment</td>
</tr>
<tr>
<td>3.1.7</td>
<td>Civil, Mechanical Process, Structural Architect, Electrical &amp; Mechanical Building</td>
<td>Major Process Structures (3.1.1) P&amp;ID (2.2.12) Equipment List (2.2.13 &amp; 2.2.16) Space Allocation for Process Equipment, Personnel, Utilities, &amp; Piping (3.1.1, 3.1.2, 3.1.3, 3.1.5, 3.1.6) Structural Design Criteria (3.1.8)</td>
<td>Develop Preliminary Floor Plans. Hold workshop to develop preliminary plans (workshop is recommended, but not mandatory).</td>
<td>Preliminary floor plans.</td>
</tr>
<tr>
<td>3.1.10</td>
<td>Civil, Electrical, Architect, Mechanical Building</td>
<td>Basis of Design memo Equipment lists and Data Sheets (2.2.13, 2.2.16). Space allocations for major process equipment, buildings and personnel areas (3.1.2, 3.1.3) hazardous materials and building materials.</td>
<td>Perform Building Space Code Review. Determine the classification rating (if any) for hazardous areas within buildings and surrounding process elements in accordance with NFPA 820 or other applicable codes.</td>
<td>Classification ratings</td>
</tr>
<tr>
<td>3.1.11</td>
<td>Civil, Electrical, Architect, Mechanical Building, Mechanical Process</td>
<td>Building space classifications for personnel and NFPA (3.1.3 &amp; 3.1.10)</td>
<td>Prepare Code Classification Table. Completion of Code Classification Table. A project team workshop is recommended but not required.</td>
<td>Code Classification Table</td>
</tr>
<tr>
<td>Task No.</td>
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<tr>
<td>3.1.15</td>
<td>Electrical &amp; I&amp;C</td>
<td>Electrical power distribution one-line (3.1.13), space allocations for electrical equipment (3.1.5) site plan.</td>
<td>Locate Major Electrical and I &amp; C Equipment. Develop preliminary layouts for major electrical equipment within structures and on the site.</td>
<td>Preliminary electrical and control equipment layouts.</td>
</tr>
<tr>
<td>3.1.18</td>
<td>Civil</td>
<td>Location of major process elements on the site (3.1.1); location of points of connection between process structures and buildings (3.1.4); location of major electrical equipment (3.1.15); space allocation for personnel (3.1.3); Preliminary Geotechnical report.</td>
<td>Design Site Layout, Roads, and Grading. Establish basic site layout, showing location of all major process elements, buildings and roads. Determine preliminary site grading requirements, including major fills and cuts.</td>
<td>Site layout showing process structures, buildings, roads, and gross contours.</td>
</tr>
</tbody>
</table>
## Technical Approach - Scope of Work

### Project Workflow Model Task Descriptions

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<tr>
<td>4.1</td>
<td>Project Manager</td>
<td>Contract and District.</td>
<td>Prepare Project Workplan, Includes general requirements, Organization Charts, Project Communications, Document Filing Codes, Schedule, and QA/AC Plan.</td>
<td>Project Workplan</td>
</tr>
<tr>
<td>4.2</td>
<td>Project Manager and Project Accountant</td>
<td>Contract and BISNET.</td>
<td>Prepare Monthly Invoice and Narrative Progress Report</td>
<td>Monthly Invoice</td>
</tr>
<tr>
<td>4.3</td>
<td>Project Team</td>
<td>District and Contract</td>
<td>Attend meetings, prepare and make presentations, and prepare meeting agendas and minutes for distribution.</td>
<td>Meeting Agenda and Minutes, Handouts for presentations.</td>
</tr>
<tr>
<td>4.4</td>
<td>QA/QC Team</td>
<td>1.3.1 thru 1.3.9, 1.4.1, 2.2, 2.24, 3.3.19, 3.4.17</td>
<td>Review and provide feedback on all technical memoranda, reports, and design documents.</td>
<td>QA/QC on all documents</td>
</tr>
<tr>
<td>4.5</td>
<td>Project Team</td>
<td>Project Team.</td>
<td>Set up through third party provider, a web-based collaborative system for project management, communication, and scheduling. Service will be subscription service by eRoom.com.</td>
<td>Collaborative Website for Project Communication Through Design Phase: Budget for CPS captured separately.</td>
</tr>
<tr>
<td>4.6</td>
<td>Project Team</td>
<td>District</td>
<td>Additional Meetings or Presentations</td>
<td></td>
</tr>
</tbody>
</table>

WHEREAS, on July 13, 1993, by Resolution No. 93-412, the City Council established a non-salaried honorary position to be known as “The Poet Laureate of the City of Modesto”, and

WHEREAS, the Culture Commission has the responsibility for nominating and recommending appointments to the Poet Laureate position, and

WHEREAS, the purpose of a Poet Laureate is to present original poems at various official occasions, and

WHEREAS, a copy of the City of Modesto Policy regarding said non-salaried honorary Poet Laureate position is on file in the office of the City Clerk, and

WHEREAS, debee loyd was appointed as “Poet Laureate of the City of Modesto” by the City Council on July 25, 2000 by Resolution No. 2000-384, and

WHEREAS, the Culture Commission met on August 18, 2003 and concluded that debee loyd has appropriately fulfilled her obligations as Poet Laureate over the previous three years, and

WHEREAS, the Culture Commission further recommended the extension of debee loyd as the Poet Laureate of the City of Modesto through June 30, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the extension of the term of debee loyd as the Poet Laureate of the City of Modesto through June 30, 2004.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH TOWN HALL SERVICES, IN THE AMOUNT OF $21,969.01 FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME

WHEREAS, on May 28, 2002, the City Council approved a professional services agreement with Town Hall Services to prepare a Capital Facilities Fee Study Update, and

WHEREAS, following completion of their original tasks, Town Hall Services was asked by the project manager to attend a number of meetings and provide additional input, and

WHEREAS, Town Hall Services has requested an additional fee of $21,969.01 to cover the additional scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment to agreement with Town Hall Services, in the amount of $21,969.01, for additional services related to the Capital Facilities Fee Study Update.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003 - 543

A RESOLUTION APPROVING THE AWARD OF A CONTRACT IN THE AMOUNT OF $59,174 TO YOUNG ELECTRIC SIGN COMPANY TO DESIGN, MANUFACTURE AND INSTALL THE MARQUEE SIGN AT MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, the City of Modesto accepted proposals on March 11, 2003 from sign manufacturers to design, manufacture, and install an illuminated airport marquee sign at the corner of Mitchell Road and Tenaya Drive, and

WHEREAS, the sign will be located adjacent to the airport passenger terminal, and will provide good advertisement of the airport and its services, and

WHEREAS, sign manufacturers were requested to show their creativity in their proposals and provide the City with a cost to design, manufacture and install the sign, and

WHEREAS, the City provided the sign manufacturers with the following elements to include in the design: (1) the name of the airport; (2) its year of establishment; and (3) the airport logo, and

WHEREAS, three proposals were received from sign manufacturers, and of those three, two were considered acceptable, and

WHEREAS, the Airport Advisory Committee selected two members to serve on a subcommittee with the Airport Manager to make a recommendation to the City Council, and

WHEREAS, the Council Economic Development Committee considered this recommendation at their May 12, 2003 meeting and unanimously approved the selection of Young Electric Sign Company, and

WHEREAS, the recommended proposal was over the budgeted amount of the original project budget of $50,000, and
WHEREAS, this $50,000 was carried over to Fiscal Year 2003/04 and the Council Finance Committee approved an additional $10,000 in the Airport’s Operating Budget in FY 2003/04 in order to fully fund this project, and

WHEREAS, the Council approved the budget increase to $60,000 for this project in Fiscal Year 2003/04 at their meeting on August 6, 2003,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves awarding a contract in the amount of $59,174 to Young Electric Sign Company to design, manufacture and install the airport marquee sign.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the contract 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 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

10/14/03/E&T/H Cook/item 06
A RESOLUTION ACCEPTING THE WORK BY A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION, FOR THE "PELANDALE AVENUE INTERCHANGE WIDENING AT STATE HWY 99" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $749,246 PER THE CONTRACT.

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Pelandale Avenue Interchange Widening at State Hwy 99" has been completed, in accordance with the contract agreement dated August 14, 2001.

NOW, THEREFORE, BE IT RESOLVED that the "Pelandale Avenue Interchange Widening at State Hwy 99" project be accepted from said contractor, A. Teichert & Son, Inc., dba Teichert Construction, that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling $749,246 as provided in the contract, be authorized.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman,
who moved its adoption, which motion being duly seconded by Councilmember Fisher,
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-545

A RESOLUTION AWARDING THE BID AND APPROVING A $20,099,999.75 CONTRACT WITH MCM CONSTRUCTION, INC., FOR THE PROJECT TITLED “9th STREET BRIDGE REPLACEMENT,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the bids received for the 9TH STREET BRIDGE REPLACEMENT project were opened at 11:00 a.m. on September 30, 2003, and later tabulated by the Engineering and Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the bid of $20,099,999.75 received from MCM Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to MCM Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of $20,099,999.75, and hereby awards MCM Construction, Inc., the contract titled “9TH STREET BRIDGE REPLACEMENT.”

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-547

A RESOLUTION AUTHORIZING THE SOLE SOURCE PURCHASE OF A USED 40-TON, TRUCK-MOUNTED CRANE FROM FORST CRANE WORKS, INC. FOR A TOTAL ESTIMATED COST OF $267,900.63

WHEREAS, the Water Quality Control Division is in need of a new 40-Ton, Truck-Mounted Crane for maintenance operations in the City, and

WHEREAS, the current equipment is at the end of its useful life, is frequently down for repairs, and is in need of replacement with a larger unit, and

WHEREAS, the City has an opportunity to purchase a used 40-ton-truck-mounted crane, and

WHEREAS, this used, 40-ton, truck-mounted crane will meet the maintenance and service needs of the Wastewater Treatment Plant maintenance crews, and

WHEREAS, the used, recommended 40-ton, truck-mounted crane will offer a full 20-year service life, and

WHEREAS, the same truck purchased new costs $307,746.75, and

WHEREAS, this used truck is in like-new condition and can be purchased for $267,900.63, offering the city a savings of $39,846.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sole source purchase of a used 40-ton, truck-mounted crane from Forst Crane Works Inc., Phoenix, Arizona at an estimated cost of $267,900.63.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael Milich
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-548

A RESOLUTION APPROVING STAFF’S RECOMMENDATION ON FUTURE USE OF SOCIAL SECURITY ADMINISTRATION BUILDING AS OFFICES, MEETING ROOMS, AND STORAGE SPACE FOR VARIOUS CITY ACTIVITIES AND AUTHORIZING STAFF TO SUBMIT A “LETTER OF INTEREST” TO OBTAIN NECESSARY APPLICATION INSTRUCTIONS FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) FOR THE SURPLUS OF THE SOCIAL SECURITY ADMINISTRATION BUILDING LOCATED AT 1230 12TH STREET.

WHEREAS, on August 29, 2003, the City of Modesto received a “Notice of Determination,” which indicated the Social Security Administration (SSA) Building, located at 1230 12th Street, had been determined to be surplus government property, and

WHEREAS, the notice, issued by the U.S. General Services Administration of the Federal Government, reported that the property was also determined to be suitable by the Department of Housing and Urban Development (HUD), and the first priority for use is programs or services for homeless, and

WHEREAS, the property consists of a .62-acre corner lot improved with an 11,957-square-foot office building and 24 paved outdoor parking spaces, with the zoning designation as C-2 (general commercial), and

WHEREAS, the building is handicapped accessible, and the City bus service stops in front of the building (Max Bus # 30), and

WHEREAS, although the building is in good condition, it does not meet current seismic standards; the cost estimate for both structural and nonstructural seismic retrofit is $58,860; the mechanical and electrical system and the roof are the major items requiring replacement and repair in the near future, the repair alteration cost estimate for continued operation is $303,000 for site repair, mechanical and electrical work, and
WHEREAS, asbestos-containing material (ACM) in the form of wallboard joint compound is located throughout the building in the walls and ceilings; the ACM is in good condition and is non-friable, and

WHEREAS, the building also contains lead-base paint; the preliminary estimate to rehabilitate this building is approximately $400,000, and

WHEREAS, the SSA presently occupies the building and is planning to move to a new facility in January 2004, and

WHEREAS, currently, SSA serves several hundred people per day on an ongoing basis, and

WHEREAS, staff proposes that the building currently housing the SSA could be utilized for several necessary purposes, including:

- Offices for the Restorative Police Function and Bicycle Officers. (The Restorative Policing Program is designed to address adults with mental illness or other disabilities that are at high risk of being repeatedly victimized or arrested for activities related to their disability),
- Offices for the “Information and Referral” agencies involved in the Stanislaus Housing and Support Services Collaborative which the City Council approved as the planning and coordinating body for homeless issues in Stanislaus County,
- Offices, storage, meeting space for the Recreation staff currently located at the Coldwell Office, and
- Storage and possible office sites for the Police Activities League (PAL) function,

and

WHEREAS, if the City's application request is approved, the City of Modesto and the Collaborative's agencies could work in coordination to rehabilitate this facility for the outlined uses, and
WHEREAS, it is expected that the Collaborative should be the agency to oversee their program portion of this facility, and a City team of employees will oversee the Recreation/PAL function,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves staff’s recommendation for future use of the Social Security Administration Building.

BE IT FURTHER RESOLVED that staff is hereby authorized to submit a “Letter of Interest” to obtain necessary application instructions from the Department of Health and Human Services (HHS) for the surplus of the Social Security Administration Building located at 1230 12th Street.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Frohman

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASE OF A SPECIAL WEAPONS AND TACTICS VEHICLE FOR POLICE SWAT OPERATIONS FOR A TOTAL ESTIMATED COST OF $214,825

WHEREAS, the Police Department is in need of a new Special Weapons and Tactics vehicle for SWAT operations in the City, and

WHEREAS, the Police Department currently utilizes a converted, 21-year old armored car for its SWAT vehicle that was never intended to be a SWAT vehicle, has outlived its useful life, is prone to frequent failures and is in need of replacement, and

WHEREAS, the new, recommended replacement SWAT vehicle utilizes current technologies and is designed as a personnel transport vehicle, and

WHEREAS, this new SWAT vehicle will hold all SWAT equipment and can be used as a rescue vehicle in the event that a person or persons are trapped by gunfire, and

WHEREAS, recent national events dictate that we in Modesto need to be prepared to handle critical events and this SWAT vehicle will assist us for all types of critical events, and

WHEREAS, violence involving guns is on the rise and this SWAT vehicle will allow us to safely confront these problems, and

WHEREAS, this SWAT vehicle’s life expectancy is anticipated to be twenty years, and

WHEREAS, at its meeting of September 3, 2003 the Safety and Communities Committee unanimously recommended this action, and

WHEREAS, at its meeting of September 22, 2003 the Finance Committee also unanimously recommended this action, and
WHEREAS, pursuant to Modesto Municipal Code Section 8-3.204(d) the Purchasing Supervisor, in his or her discretion, has determined that a process other than the formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of a Ballistic Engineered Armored Response/Rescue ("SWAT") Vehicle from Lenco Armored Vehicles at 61 Downing Industrial Park in Pittsfield, Massachusetts at a cost of $214,825.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NUMBER 2003-550

A RESOLUTION AMENDING THE FISCAL YEAR 2003/04 BUDGET TO TRANSFER FUNDS FROM THE FLEET FUND RESERVES TO FLEET EQUIPMENT REPLACEMENT FOR THE PURCHASE OF A SPECIAL WEAPONS AND TACTICS VEHICLE FOR POLICE SWAT OPERATIONS

WHEREAS, the Police Department is in need of a new Special Weapons and Tactics vehicle for SWAT operations in the City, and

WHEREAS, the Police Department currently utilizes a converted, 21-year old armored car for its SWAT vehicle that was never intended to be a SWAT vehicle, has outlived its useful life, is prone to frequent failures and is in need of replacement, and

WHEREAS, the new, recommended replacement SWAT vehicle utilizes current technologies and is designed as a personnel transport vehicle, and

WHEREAS, the cost of said SWAT Vehicle is $214,825.00, and

WHEREAS, the new SWAT vehicle’s life is anticipated to be twenty years, and

WHEREAS, at its meeting of September 3, 2003 the Safety and Communities Committee unanimously recommended this action, and

WHEREAS, at its meeting of September 22, 2003 the Finance Committee also recommended this action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2003/04 Annual Budget is hereby amended as indicated below:

**Appropriate:**
To: 7200-480-5814-5700 $214,825 Fleet Equipment Replacement

**Revenue:**
From: 7210-800-8000-8003 $214,825 Fleet Fund Reserves

2003 -550
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 14th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
CONSIDER REJECTING ALL BIDS FOR RADIO AND COMMUNICATION EQUIPMENT SERVICE AND REPAIR CONTRACT AND AUTHORIZING RE-BIDDING THE SERVICES

WHEREAS, the Fire, Operations and Maintenance and Police Departments have requested ongoing service and repair for their inventory of mobile and portable 2-way radios and communication equipment, and

WHEREAS, the Operations and Maintenance Department, Fleet Services Division manages and maintains the City’s inventory of mobile radios, and

WHEREAS, the Fire Department manages and maintains their inventory of portable radios and radio equipment, and

WHEREAS, the Police Department manages and maintains their inventory of portable radios and the City’s radio communications infrastructure, and

WHEREAS, in December 2002, Council approved Resolution No. 2002-610 authorizing the Purchasing Supervisor to formally solicit bids for mobile and portable 2-way radio and communication equipment service and repair for the Fire Operations Maintenance and Police Departments, and

WHEREAS, the Purchasing Division solicited Request for Bid No. 0203-13 for mobile and portable 2-way radio and communication equipment service and repair to five (5) vendors. Bids were opened on June 10, 2003. Of the five (5) vendors solicited, two (2) vendors chose to respond, and

WHEREAS, one of the requirements in the bid called for bidders to possess a C7 Low Voltage Systems Contractor’s License, and
WHEREAS, of the two (2) respondents, only one (1) bidder, Delta Wireless Inc., had the required license, and

WHEREAS, the other bidder (Lagorio Communications), who does not have the C7 license, stated so in an e-mail prior to the bid opening and also stated that they were in the process of filing for the license with the California Contractors State License Board, and

WHEREAS, to allow for increased vendor inclusion, they were given approval to submit their bid with the C7 license application attached, and

WHEREAS, Lagorio also stated the C7 Contractors license has never been used in the wireless industry and really applies to contractors who do network cabling for computer solutions, and they along with another company who does not have this license have full Motorola dealerships with full warranty repair authorization from Motorola, and

WHEREAS, in further research, the California State License Board declares in California Code of Regulations Division 8, Title 16, Article 3, Classification for a C7 Low Voltage Systems Contractor License: A communication and low voltage contractor installs, services and maintains all types of communication and low voltage systems which are energy limited and do not exceed 91 volts. These systems include, but are not limited to, telephone systems, closed-circuit video systems, satellite dish antennas, instrumentation and temperature controls, and low voltage landscape lighting. Low voltage fire alarm systems are specifically not included in this section, and

WHEREAS, based on the scope of services bid and verbal confirmation from the State Contractors Licensing Board the decision was made, (pending Council approval) to
award to the only responsive bidder currently in possession of the required C7 license,

and

WHEREAS, intent to award letters were mailed on August 26, 2003, and

WHEREAS, on September 8, 2003 the Purchasing Supervisor received a formal bid protest filed by a Mr. Steve Finch on behalf of Lagorio Communications, and

WHEREAS, Mr. Finch was protesting the C7 license requirement and the lack of opportunity to protest the requirement, and

WHEREAS, on September 10, 2003 the Purchasing Supervisor responded to the protest in writing, citing the State Contractors Licensing Board requirements as well as the protest that Mr. Finch had filed, and

WHEREAS, in summary, the Purchasing Supervisor concluded that the process was fair and the licensing requirement valid, and

WHEREAS, on September 17, 2003 Mr. Finch appealed the Purchasing Supervisor’s decision to the Deputy City Manager as prescribed in the City’s protest procedures, and

WHEREAS, the Deputy City Manager reviewed the appeal and rendered his decision, and

WHEREAS, based on the documentation submitted to the Deputy City Manager, his recommendation was to reject all bids and re-bid the Radio and Communication Equipment Service and Repair contract with the inclusion of a C7 and/or C10 licensing requirement and at the bid opening to have all bids read aloud noting that all bids are conditional and subject to review and evaluation prior to award, and
WHEREAS, his decision was based on his feeling that the prospective bidder might have been confused by being allowed to submit a bid with a C7 license application as opposed to actually having the C7 license, and

WHEREAS, the decision of the Deputy City Manager, after reviewing the protest/appeal documents submitted by the appellant, Lagorio Communications, was to reject all bids and re-bid for services. In addition, page number 3 of the bid states that: The City reserves the right to reject any or all bids or to waive any informalities or minor irregularities in a bid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects the bids received for Mobile and Portable 2-Way Radio and Communication Equipment Service and Repair, Bid No. 0203-13, opened in the City Clerk’s office on June 10, 2003.

BE IT FURTHER RESOLVED that a Request for Proposal for a Mobile and Portable 2-Way Radio and Communication Equipment Service and Repair contract with the inclusion of a C7 and/or C10 licensing requirement, for an estimated annual amount of $45,425.00, for a three (3) year contract, is hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino
NOES:  Councilmembers:  Conrad, Fisher
ABSENT:  Councilmembers:  None

ATTEST:  Jean Zahr, City Clerk

APPROVED AS TO FORM:
By:  Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-552

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(562). (SILVEIRA)

WHEREAS, a verified application for an amendment to Section 7-3-9 of the Zoning Map was filed by Mary Silveira on March 31, 2003, to reclassify from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562), to allow a 14 unit townhouse-style apartment complex, property located on the west side of Carver Road, opposite Montclair Drive, described as follows:

R-1 to P-D(562)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southwest Quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Parcel “1” as per Parcel Map filed on August 31, 1979 in Book 29 of Parcel Maps, at Page 88, Stanislaus County Records;

Also including the westerly half of Carver Road, all being immediately adjacent to the above-described property.

WHEREAS, after a public hearing held on September 8, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2003-56, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed townhouse-style apartment complex is consistent with the current General Plan land use designation for the site.

2. The townhouse-style apartment complex is compatible with the adjacent land uses along Carver Road.
WHEREAS, said matter was set for a public hearing of the City Council to be held on October 14, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Mary Silveira for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2003-56 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3325-C.S. on the 14th day of October, 2003, reclassifying the above-described property from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(562), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Carver Road Multi-Family” as amended in red, stamped approved by the City Council.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Director. Sequoia Sempervirens, “Soquel or “Aptos Blue,” 24” box size at 12’ on-center spacing, shall be installed along the south property line as indicated on the stamped approved plan and required by the Parks, Recreation and Neighborhoods Director. Screen Landscaping shall be installed along the west property line.

3. Prior to the issuance of certificate of occupancy, landscaping and the irrigation system shall be installed in accordance with the approved plan.

4. Fences or walls shall be constructed prior to occupancy and shall be as follows:
a. Eight-foot-high wood fence with decorative masonry pilasters at 16-foot on-centers on the south side of the property where the fence is adjacent to the building.

b. Seven-foot-high wood fence with decorative masonry pilasters at 16-foot on-centers on the north side of the property where the fence is adjacent to the building.

c. Seven-foot-high, solid double-sided alternating-board fence with decorative masonry pilasters at 16-foot on-centers on the south, east and west sides of the property where the fence is adjacent to parking or driveways.

5. All landscaping, fences, and walls shall be maintained in accordance with the approved plan and the premises shall be kept free of weeds, trash, and other debris.

6. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.

7. Street dedication consistent with Standard Specifications shall be made prior to the issuance of a building permit or at any time requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.

8. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Engineering and Transportation Director to alleviate a health, safety, or traffic problem in the area.

9. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and Transportation Director. Improvements shall be constructed in accordance with the approved plans.

10. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder's Office as required by AB1414.

11. All utilities shall be underground and cable television service shall be stubbed into all units.
12. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

13. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along all street frontages as required by the Engineering and Transportation Director.

14. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of stormwater in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

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

16. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

17. All signs shall comply with the sign requirements of the R-3 Zone.

18. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Operations and Maintenance Department Director. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director.

19. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.

20. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.
21. The developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of both parcels substantially as shown in red on the plot plan.

22. Prior to the certificate of occupancy, a fire turnaround, which meets City Standards, shall be constructed as approved by the Fire Chief.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(562):

The construction program be accomplished in phases as follows:

Phase I – Construction to begin on or before October 14, 2005 and completion to be not later than October 14, 2006.

Phase II – Construction to begin on or before October 14, 2006 and completion to be not later than October 14, 2007.

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

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

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(562), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Conrad, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

MICHAEL D. MILICH, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By ________________________________
Community & Economic Development Department
Planning Division
A Resolution finding that the following project is within the scope of the project covered by the Modesto Urban Area General Plan Master Environmental Impact Report (SCH No. 1999082041): Amending Section 7-3-9 of the Zoning Map to Rezone from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562), Property located on the West Side of Carver Road, Opposite Montclair Drive (Mary Silveira)

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

WHEREAS, Mary Silveira has proposed that the zoning designation for the property located on the west side of Carver Road, opposite Montclair Drive be amended to rezone from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(562), in the City of Modesto (the "project"), to allow a 14 unit townhouse-style apartment complex, and

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

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2003-75 reviewed the proposed amendment to the Zoning Map and rezone P-D(562) project to determine whether the
project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on September 15, 2003 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 14, 2003, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone to P-D(562) project, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the FMEIR Update (SCH No. 1999082041) as being within the scope of the FMEIR Update.

2. That the project will have no new significant effects on the environment not identified or examined in the FMEIR Update, and no new or additional mitigation measures are required.
3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the FMEIR Update will be sufficient for this project.

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of October, 2003, by Councilmember Conrad,
who moved its adoption, which motion being duly seconded by Councilmember
O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________

(SEAL)

APPROVED AS TO FORM:

By: __________________________

MICHAEL D. MILICH, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2003-75
I. PURPOSE

Section 21157.1 of the Public Resources Code, allows for limited environmental review of subsequent projects under a Master EIR, provided that certain findings are made. The Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), adopted March 4, 2003, allows such limited review for projects in the Baseline Developed Area that are consistent with the General Plan and existing zoning.

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

II. PROJECT DESCRIPTION

A. Project title:
P-D – Carver Apartments

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

C. Contact person and phone number:
Josh Bridegroom, Community Development Department, (209) 571-5540

A. Project Location:
West side of Carver Road, opposite Montclair Drive

E. Project Sponsor:
Mary Silveira

F. General Plan Designation:
Residential (R)

G. Current Zoning:
Low Density Residential (R-1)

H. Description of Proposed Project:
This is an application to rezone a one acre parcel located on the west side of Carver Road, opposite Montclair Drive from R-1 (Single Family Residential) to P-D (Planned Development) to allow the development of a two-story, 14-unit townhouse-style apartment complex with 57 parking stalls.

I. Surrounding land uses:
The project is surrounded by a vacant lot to the north, Carver Road to the east, a single family residence and church to the south, and single family residential to the west.

J.  Other public agencies whose approval is required:  
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

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

A. Traffic and Circulation

The General Plan designates the project site as Residential. The project is consistent with this designation in land use and intensity and will therefore not generate traffic greater than projected by the MEIR. Therefore, there would be no change needed in the Traffic and Circulation section of the EIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-33) are still valid.

B. Degradation of Air Quality

The air quality impacts for this project are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through IV-2-26) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development and thus, noise generation within the Baseline Developed Area. This project is consistent with the General Plan in both land use and intensity. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through IV-4-12) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. This project is consistent with the General Plan in both land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through IV-5-13) are therefore still valid.
F. Increased Demand for Sanitary Sewer Services

The project is consistent with the General Plan Designation for the site in land use and intensity and will therefore not increase demand for sanitary sewer service beyond that projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are still valid.

G. Loss of Sensitive Wildlife and Plant Habitat

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure V-7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, the Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages V-7-1 through V-7-29) are still valid.

H. Disturbance of Archaeological and Historic Sites

This project will not disturb any archaeological or historic sites that have been identified in the Disturbance of Archaeological or Historical Sites section of the 1995 MEIR, as sited in the 2003 MEIR. Figure 8-1 of the 1995 MEIR, as sited in the 2003 MEIR, indicates that this project is also outside the Archaeological Resource Study Area, which shows areas that may require additional site-specific investigations. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-22) are still valid.

I. Increased Demand for Storm Drainage

The General Plan MEIR assumed that there would be further development and thus, increased demand for Storm Drainage within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site, and the project complies with the adopted storm drainage policies from the various agencies listed in the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are still valid.

J. Flooding and Water Quality

The General Plan designates the project site as Residential. The project is consistent with this designation in land use and intensity and will therefore not generate drainage, flooding or water quality problems greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-16) are still valid.

K. Increased Demand for Parks and Open Space

The General Plan MEIR assumed that there would be further development and thus, increased demand for Parks and Open Space within the Baseline Developed Area. This
project is consistent with the General Plan in terms of land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-14) are still valid.

L. Increased Demand for Schools

This project was referred to the affected school districts who raised no objection or concern upon reply. The appropriate school impact fees will be assessed on all construction. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. The proposed project is consistent with the General Plan with regard to land use and intensity. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-7) are still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Fire Services to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through V-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. This project is consistent in land use and intensity with the General Plan designation for the site. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-15) are still valid.

Q. Landslides and Seismic Activity

This project will result in no additional potential for exposing people to landslides or
earthquake related hazards such as liquefaction beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Landslides and Seismic Activity (pages V-17-1 through V-17-12) are therefore still valid.

R. Energy

The MEIR concludes that adopted policies in the City of Modesto and County of Stanislaus would reduce the impact of new projects on Energy to a less than significant level. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through IV-18-7) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 1999082041).

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

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

D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.

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

Signature:

Josh Bridegroom,
Assistant Planner
A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN KAISER FOUNDATION HOSPITALS AND THE CITY OF MODESTO

WHEREAS, Kaiser Foundation Hospitals has applied for prezoning, annexation, a sphere of influence amendment and a development agreement to develop a 1.2-million-square-foot medical center located on the west side of Dale Road north of Bangs Avenue, and

WHEREAS, because of the complexity of the entitlement process for the medical center, Kaiser Foundation Hospitals desires to enter into a Memorandum of Understanding with the City of Modesto for issues related to the processing of said entitlements, and

WHEREAS, staff from Kaiser Foundation Hospitals and the City of Modesto have negotiated terms of a Memorandum of Understanding satisfactory to both parties, and

WHEREAS, the City Council Economic Development Committee considered the proposed Memorandum of Understanding on September 8, 2003, and unanimously recommended approval by the City Council, and

WHEREAS, the City Council considered the proposed Memorandum of Understanding at their regularly scheduled meeting on the 14th day of October, 2003, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding between Kaiser Foundation Hospitals and the City of Modesto related to the processing of development entitlements
for the proposed medical center on the west side of Dale Road north of Bangs Avenue, a
copy of which is attached hereto as **Exhibit “A”** and incorporated herein by this
reference.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 14th day of October, 2003, by Councilmember Fisher,
who moved its adoption, which motion being duly seconded by Councilmember
Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: [Signature]
MICHAEIL D. MILICH, City Attorney
MEMORANDUM OF UNDERSTANDING
BETWEEN KAISER FOUNDATION HOSPITALS AND
THE CITY OF MODESTO

KAISER FOUNDATION HOSPITALS, a California nonprofit public benefit corporation ("Kaiser") and the CITY OF MODESTO, a municipal corporation of the State of California ("City"), enter into this Memorandum of Understanding as of this day of June, 2003 (the "Agreement"). This Agreement is based upon the following facts:

A. Kaiser desires to build a state-of-the-art Kaiser Permanente Medical Center in Modesto, California (the "Medical Center") on 49-acres of unimproved real property located on Dale Road at the corner of Bangs Avenue, adjacent to the north west border of the City of Modesto in an unincorporated area of the County of Stanislaus (the "Project Site"). At this time, there is no Kaiser Permanente hospital in Stanislaus County or in the southern San Joaquin Valley region, where Kaiser anticipates its membership will increase significantly in the next decade. The Kaiser Permanente Modesto Medical Center will help alleviate a projected shortage of hospital beds in Stanislaus County that is expected to exceed 500 beds by the year 2015.

B. On January 27, 2003, Kaiser submitted an application to the City for environmental review of the Medical Center project approvals, agreements, permits and entitlements, certification under the California Environmental Quality Act and approval by the City (the "Entitlements"). The project calls for the phased construction of various inpatient and outpatient facilities at the new Medical Center campus site over a 25 year term, including a hospital, hospital support wing, medical services buildings, central plant, and ancillary structures (the "Project").

C. Because of the large capital commitments, expenses and outlay for a project of such magnitude, the timing and expedient processing of Entitlements is important to Kaiser. Kaiser understands that the outcome of the Entitlement process cannot be predetermined, but desires that the processing of the Medical Center permits and approvals be granted priority by the City of Modesto. Kaiser desires that the City and its staff understand the importance of the Project schedule and the need for the efficient prioritization and allocation of staff time and resources and cooperation and coordination with the County of Stanislaus to avoid undue delay in the provision of health care to Kaiser members and the community. Because of the need to improve the availability and the quality of health care to Kaiser Permanente members and the community, Kaiser desires to obtain the Entitlements from the City as soon as possible,
with an initial target date of May 1, 2004. Kaiser recognizes that timely, thorough and consistent responses and decisions by Kaiser are required to expedite the schedule.

D. Kaiser has selected the City of Modesto and the County of Stanislaus for the Medical Center site in part because Kaiser is confident in the ability of the City and County to cooperate and process the Entitlements on an expedited basis. To date, Kaiser has received exemplary cooperation from all of the City departments in the timely processing and expediting of the Entitlements. The parties acknowledge that the City of Modesto wishes to undertake the land use entitlement and environmental review process in a time-sensitive manner to expedite the provision of health care to Kaiser members in Modesto.

E. Kaiser Permanente is the largest non-profit health maintenance organization in the United States. The Medical Center campus is expected to serve approximately 165,000 members in Kaiser’s Stanislaus/Manteca/Tracy market at the time that the first Medical Services Building opens in 2005 and over 195,000 members when the hospital opens in 2008. After opening, the Medical Center will be recruiting employees from a wide range of professions to service the Medical Center to work and live in Modesto. The parties acknowledge that the economic impacts created by this Project will help generate employment and economic development in the City of Modesto and the County of Stanislaus such as construction related jobs and be an important part of the emergence of Modesto and Stanislaus County as a regional medical center and a Healthcare Center of Excellence.

To achieve the goals outlined in these recitals, the parties desire to enter into this Agreement.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. City will appoint a development team with one identified team leader empowered to coordinate City’s various departments in their interaction with the Kaiser development team. The “City Development Team” shall consist of this team leader and persons responsible for various subject areas and the departments necessary to the timely processing of the Kaiser application, as reasonably requested by Kaiser. The City Development Team shall include an attorney from the City Attorney’s office on a periodic basis. Kaiser will appoint a development team with an identified team leader to interact with the City development team and to include all technical and legal experts necessary facilitate the entitlement process.

2. City and Kaiser agree to work with the County of Stanislaus and LAFCO in the processing of the sphere of influence amendment, annexation and related issues and City agrees to participate in a multi-agency team to streamline processing of the Project should other agencies desire to participate.
3. City and Kaiser will use their best efforts to process the Kaiser application pursuant to a schedule mutually agreed upon by both parties. The City and Kaiser will participate in meetings and conference calls and take all actions as are necessary to stay on the processing schedule. The City and Kaiser will ensure that its personnel are available to avoid delay to the schedule. City and Kaiser personnel will be available to review documents produced by City consultants in a timely manner with priority and Kaiser agrees to pay for the reasonable cost of hiring of temporary outside staff support if the City project leader determines that such support will be necessary to keep the Project on schedule. City and Kaiser shall review and provide its input to sub-consultant reports such as traffic and water studies within a reasonable time frame and review and provide its input to the EIR Consultant on the Administrative Draft Environmental Impact Report within thirty (30) working days. The City and Kaiser will use best efforts to maintain the schedule attached hereto as Exhibit “A”, which may be revised from time to time.

4. Kaiser acknowledges that changes to the Project, changes to the Project description, and delays in providing and reviewing documents or responding to requests for information from the City, City consultants and LAFCO by Kaiser will result in delays to the schedule. Kaiser agrees to respond to the data requests of the City’s EIR consultant in a timely manner and do all necessary actions in its power to expedite the Project schedule. Kaiser also acknowledges that the Project schedule will be impacted by the public comment process and desires to encourage the discourse with the community regarding the development of the Medical Center.

5. City will undertake and produce in a timely manner the water supply assessment required for the project pursuant to the provisions of Senate Bill 610.

6. City represents the following: (a) the Medical Campus project site has complied with the provisions of City initiatives, Measure A and Measure M, or is exempt from such measures; (b) City believes that sufficient wastewater plant treatment capacity and wastewater transmission capacity is or will be available to serve the Medical Campus project. City and Kaiser will cooperate in the preparation of facilities plans to provide wastewater service to each phase of the Medical Campus project; (c) the City believes that there is sufficient domestic water supply capacity to serve the Medical Campus project. City and Kaiser will cooperate in the preparation of the required Municipal Service Review, Master Services Element, SB610 Water Supply Assessment and facility study to ensure water supply, storage and transmission to each phase of the Medical Campus project. The above representations are subject to completion of the required Municipal Service Review, Master Services Element, and water supply assessment required by SB610.
7. City acknowledges that a development agreement will be requested by Kaiser to vest the Project Entitlements for a multi-year term and such a development agreement may include topics such as: (1) the vesting of fees and exactions for the Project, (2) an exemption from any development moratorium unless the moratoria is required to protect the public health and safety, (3) varying the phasing of construction, (4) the possible use by Kaiser of modular buildings for medical uses prior to completion of permanent structures on the site; (5) mitigation for environmental impacts identified in the EIR; and (6) provision for infrastructure necessary to serve the project site and the 39 acres of business park land to the north of the project site.

8. Kaiser represents that the size of the Project Site is the minimum necessary for the Medical Center buildout. If mitigation for environmental or other purposes is proposed that would utilize land owned or to be owned by Kaiser, City will work cooperatively to minimize the use of Kaiser land if other feasible alternatives exist.

9. City and Kaiser agree to prepare any information required by the Stanislaus Local Agency Formation Commission ("LAFCO") pursuant to a schedule that ensures that any necessary LAFCO information is included in the environmental impact report prepared for the project and preparation of such information shall not cause delay to the processing schedule.

10. The City and Kaiser agree to prepare the necessary documents and information needed to process the Specific Plan Amendment to the Kiernan Business Park Specific Plan which is attached hereto as Exhibit "B" and to have such Specific Plan Amendment considered and acted upon by the appropriate decision-making bodies. All City-initiated amendments to the Specific Plan that require analysis by the EIR will be included by City in the project prior to the release of the NOP for the project.

11. City and Kaiser agree to cooperate with the County, Caltrans, StanCOG, and other responsible agencies to facilitate adequate traffic improvements by these and other agencies in the area of the project.

12. City agrees to provide notice of the CEQA review process to interested parties such as the Salida Municipal Advisory Council, the Salida Fire Protection District, and the Fleur de Ville Homeowners Association. Kaiser agrees to work closely with these entities to address their concerns.

13. The parties agree to work together to create design guidelines for the Kiernan Business Park that will ensure that quality development shall be required in the area surrounding the Medical Campus project site.
14. The project also includes annexation of 39 acres of additional business park land to the north of the project site. Kaiser acknowledges that it is responsible for coordinating responses to the City’s requests for information and entitlement proposals for the Kaiser proposal and the adjacent 39 acres, and ensuring that the City receives adequate and timely information necessary for the successful and timely completion of the entitlement process, including CEQA review, for this area.

15. The parties acknowledge and agree that this MOU expresses only the intentions of the parties and shall not constitute a binding agreement. Kaiser acknowledges that as a public municipal corporation, City and its Council, Boards, Commissions, Departments, employees, officers, agents and representatives exercise certain police powers, taxation powers, and other governmental powers duties and authorities over the Project Site and the 39 acres of business park land to the north of the project site, and are required to follow applicable provisions and requirements of the City Charter of the City of Modesto, the Modesto Municipal Code, the California Environmental Quality Act (Public Resources Code § 21000 et seq., “CEQA”), and other ordinances, regulations, statutes and laws (collectively the “Entitlement Laws”) regarding the review, consideration, processing and approval of the Entitlements, the Development Agreement and other administrative or ministerial approvals, permits, plans or actions required for the development of the Medical Center. The Entitlement Laws require, among other actions, the filing of applications, payment of processing fees, and public notice and public hearings regarding the Entitlements and the Project. Kaiser acknowledges that City reserves (without qualification or restriction whatsoever) all of its rights under the Entitlement Laws (or any other applicable statute, law, ordinance, order, code or regulation) to approve, conditionally approve, modify, or deny the Entitlements and all other administrative or ministerial approvals, permits, plans or actions required for the development of the Medical Center Project. Notwithstanding any provision of this Agreement to the contrary, nothing contained in this Agreement shall in any manner (a) limit, restrict or affect (or constitute any form of promise to limit, restrict or affect in the future) in any manner the exercise by City of its police powers, taxation powers or any other governmental powers, duties and authorities under the Entitlement Laws or any other statutes, laws, ordinances, or regulations or (b) constitute the approval of a project under CEQA or an action, policy, undertaking or other action requiring approval from the City.

"KAISER"

KAISER FOUNDATION HOSPITALS,
a California non-profit public benefit corporation
By:
Name: Toni Flores
Senior Operations Leader

"CITY"

CITY OF MODESTO, a municipal corporation
of the State of California

By:
Jack C. Crist
City Manager/Executive Director

ATTEST:

By:
JEAN ZAHR
City Clerk

APPROVED AS TO FORM:

By:
MICHAEL D. MILICH
City Attorney

(SEAL)
Exhibit "A"

Kaiser Medical Center Processing Schedule
## Kaiser Medical Campus Entitlement Schedule

### Blue: Assuming Significant Comments on EIR
### Red: Assuming No Significant Comments on EIR

8/1/03

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<td>15 days</td>
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<td>15 days</td>
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<td>10 days</td>
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A RESOLUTION ACCEPTING $166,485 IN GRANT FUNDING FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, JOBS HOUSING BALANCE INCENTIVE GRANT, FOR PORTIONS OF THE CONSTRUCTION OF THE NEIGHBORHOOD CENTER AT MARSHALL PARK, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT CONTRACT.

WHEREAS, funding for Job Housing Balance Incentive Grant (JHBP) has been made available by the California Department of Housing and Community Development (Department), pursuant to the Housing and Emergency Shelter Trust Fund of 2002 (Proposition 46), Notice of Funding Availability (NOFA) released January 24, 2003, and

WHEREAS, pursuant to the statute, the Department is authorized to approve funding allocations for the program, subject to the terms and conditions of the NOFA and program application form, and

WHEREAS, on March 26, 2003, the City of Modesto, Parks, Recreation and Neighborhood (PR&N) Department applied for, and was successful in receiving grant funding for a portion of the construction costs of the Neighborhood Center at Marshall Park, and

WHEREAS, the PR&N Department shall be subject to the terms and conditions as specified in the standard agreement (Contract), and funds are to be used for allowable expenditures as identified in Attachment A of the Contract, and

WHEREAS, the application in full is incorporated as part of the Contract and any and all activities funded, information provided and timelines represented in the application are enforceable through the Contract, and
WHEREAS, the PR&N Department hereby agrees to use the funds for eligible capital assets in the manner presented in the application as approved by the Department and in accordance with the NOFA and application package,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $166,485 in grant funding under the California Department of Housing and Community Development, Job Housing Balance Incentive Grant, for a portion of the construction costs of the Neighborhood Center at Marshall Park.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager, or his designee, to execute the Contract, and any and all instruments required by the Department for participation in the JHBP.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN AHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING THE FY2003-04 CIP AND OPERATING BUDGETS TO ESTIMATE $166,485 IN NEW REVENUE, APPROPRIATE $166,485 TO CIP NEIGHBORHOOD CENTER AT MARSHALL PARK (1300-310-M163), REDUCE THE CDBG CONTRIBUTION TO PROJECT M163 BY $166,485, AND TRANSFER THIS AMOUNT TO CDBG RESERVE, (1130-800-8000-8003).

WHEREAS, on March 26, 2003, staff submitted an application for $166,485 in grant funding under the California Department of Housing and Community Development, Job Housing Balance Incentive Grant (JHBP) for a portion of the construction costs of the Neighborhood Center at Marshall Park, with the balance of project funds to be provided from the anticipated Section 108 Loan Guarantee, and

WHEREAS, staff received a grant contract for the above project dated September 24, 2003 in the amount of $166,485,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the fiscal year 2003-2004 Capital Improvement budget to estimate $166,485 in revenue from the California Department of Housing and Community Development, Job Housing Balance Incentive Grant and to appropriate $166,485 to the Neighborhood Center at Marshall Park (M163).

BE IT FURTHER RESOLVED THAT $166,485 will be reduced in revenue and expenditure from project M163, and this amount will be transferred to CDBG Reserve.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2003-557

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF
ELIZABETH GRAHAM, SUSAN JOHNSEN AND GENE CARHART FROM
THE COMMUNITY QUALITIES FORUM, EFFECTIVE OCTOBER 28, 2003

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

WHEREAS, SUSAN JOHNSEN was appointed a member of the Community
Qualities Forum on April 10, 2001; and

WHEREAS, GENE CARHART was appointed a member of the Community
Qualities Forum on February 12, 2002; and

WHEREAS, ELIZABETH GRAHAM, SUSAN JOHNSEN and GENE
CARHART have tendered their resignations from the Community Qualities Forum,
effective October 28, 2003; and

WHEREAS, ELIZABETH GRAHAM, SUSAN JOHNSEN and GENE
CARHART have been a devoted and sincere public servants and have contributed greatly
to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignations of ELIZABETH
GRAHAM, SUSAN JOHNSEN and GENE CARHART from the Community Qualities
Forum be, and hereby are accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its
own behalf, and on behalf of the citizens of this City, hereby expresses its sincere
appreciation to ELIZABETH GRAHAM, SUSAN JOHNSEN and GENE CARHART for
their outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

Michael D. Milich, City Attorney
A RESOLUTION DECLARING THE CITY COUNCIL’S INTENTION TO ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES NO. 2003-1 (FAIRVIEW VILLAGE) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN SAID COMMUNITY FACILITIES DISTRICT

WHEREAS, Del Valle Capital Corporation, Inc., the owner (the “Owner”) of not less than 10 percent of the area of land depicted on the map of the proposed community facilities district referred to below on file with the City Clerk (the “Property”), has filed a written petition with the City of Modesto (the “City”) to establish the City of Modesto Community Facilities No. 2003-1 (Fairview Village) (the “Community Facilities District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the “Act”) in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A hereto, and all appurtenances and appurtenant work associated therewith (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 replenishment of bond reserve and special reserve funds (the “Incidental Expenses”) and to pay the cost of the services listed in Appendix A hereto (the “Services”); and

WHEREAS, the Owner has heretofore submitted to the City an application to form the Community Facilities District and has advanced to the City the deposit required pursuant to the City’s Policies & Procedures for the Formation, Annexation, and Administration of Communities Facilities Districts Created Pursuant to the Provisions of the Mello-Roos Community Facilities Act of 1982 (the “City’s CFD Policies and Procedures”); and
WHEREAS, the petition submitted by the Owner complies with the requirements of Section 53319 of the Act and the City’s CFD Policies and Procedures; and

WHEREAS, subject to the satisfaction of all applicable requirements of law, it is the intention of this City Council to finance the Facilities and the Incidental Expenses and to pay for the Services through the formation of the Community Facilities District and the levy of a special tax and (in the case of the Facilities and the Incidental Expenses) the issuance of bonds, provided that the levy of the special tax and the issuance of the bonds are approved at an election to be held within the boundaries of 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. The Community Facilities District is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the Community Facilities District shall be as depicted on the map of the proposed Community Facilities District which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the Community Facilities District and record it with all proper endorsements thereon with the County Recorder of the County of Stanislaus within fifteen days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

SECTION 3. The name of the proposed Community Facilities District shall be “City of Modesto Community Facilities District No. 2003-1 (Fairview Village).”

SECTION 4. The Facilities and Services proposed to be provided within the Community Facilities District are each facilities or services, as the case may be, which the City is authorized by law to construct, acquire, own and operate, or to provide. This City Council hereby finds and determines that the descriptions of the Facilities and the Services contained herein is sufficiently informative to allow taxpayers within the proposed Community Facilities District to understand what the funds of the Community
Facilities District may be used to pay for. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the Community Facilities District and levying and collecting a special tax within the Community Facilities District.

SECTION 5. Except where funds are otherwise available, it is the intention of this City Council to levy annually in accordance with the procedures contained in the Act a special tax, secured by recordation of a continuing lien against all non-exempt real property in the Community Facilities District, sufficient to pay for: (i) the Facilities, the Incidental Expenses and the Services and (ii) the principal of and interest on and other periodic costs with respect to the bonds issued to finance the Facilities and the Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the Community Facilities District and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) in connection with the bonds. The Facilities may be financed on a direct payment basis or through the issuance of the bonds. The rate, method of apportionment and manner of collection of the special tax are described in detail in Appendix B attached hereto and incorporated herein as though set forth at length (the “Rate and Method”). Appendix B allows each landowner and resident, if any, within the Community Facilities District to estimate the maximum amount that may be levied against each parcel.

If special taxes of the Community Facilities District are levied against any parcel used for private residential purposes, (i) such tax shall not be levied or collected to pay for Facilities or Incidental Expenses after the 2044-2045 tax year and (ii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District by more than ten percent (10%).
This City Council hereby determines the Rate and Method to be reasonable. The special tax is apportioned to each parcel on the basis of its net acreage pursuant to Section 53325.3 of the Act; and such special tax is not on or based upon the value or ownership of real property. 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 tax, this City Council shall, on behalf of the Community Facilities District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in the Rate and Method, to the extent necessary upon the remaining property within the Community Facilities District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described in this Section 5.

SECTION 6. A public hearing (the “Hearing”) on the establishment of the Community Facilities District and the proposed Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on December 2, 2003, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 95353. Should this City Council determine to form the Community Facilities District, a special election will be held to authorize the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election is expected to be a landowner vote with each landowner of record as of the close of the Hearing having one vote for each acre of land or portion thereof owned within the Community Facilities District. Ballots for the special election may be distributed by mail or by personal service.

SECTION 7. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed Community Facilities District, may appear and be heard.

SECTION 8. Each officer of the City who is or will be responsible for providing the Facilities or Services within the proposed Community Facilities District, if it is established, is hereby directed to study the proposed Community Facilities District and, at or before the time of the Hearing, file a report with this City Council containing a brief
description of the Facilities or Services, as the case may be, which will in his or her opinion be required to meet adequately the needs of the proposed Community Facilities District and an estimate of the cost of providing those Facilities or Services and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by the City 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 this City Council, with or without interest.

SECTION 10. The Clerk is hereby directed to publish a notice (the “Notice”) of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing. The Clerk is further directed to mail a copy of the Notice to each of the landowners and registered voters, if any, within the boundaries of the Community Facilities District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed Community Facilities District and a description of the proposed voting procedure for the election required by the Act.

SECTION 11. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
APPENDIX A

LIST OF FACILITIES

Water System:

Two wells, distribution pipelines, well-head treatment systems, surface water supply pipelines, tanks, booster pumps and approximately 1.75 acres of land. The well-head treatment system is proposed to be financed through acquisition, construction, lease, lease-purchase, or installment-purchase arrangement. The proposed lease, lease-purchase, or installment-purchase arrangement would be for commercial terms for a period not to exceed thirty (30) years.

Wastewater System:

Two lift stations and two force mains.

Storm Drain System:

Approximately nine acres of land, storm drainage facilities including pump station, dual-use basin and landscaping, fencing, lift station, force main and gravity line.

Class I Bike Trail:

Includes demolition, grading and drainage, site electrical, construction, site furnishings, irrigation and planting.

LIST OF SERVICES

Maintenance of parks, parkways and open space (including the bike trail) and maintenance of the storm drainage basin and related facilities.
APPENDIX B

RATE AND METHOD OF APPORTIONMENT
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,
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 region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 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...
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.
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES

Ultimate Boundary of Fairview Village

Tax Zone #1
056-027-002

056-027-010
056-028-012
056-028-013
056-028-003
056-028-008
056-028-007
056-028-015
056-027-009
ATTACHMENT 2

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(FAIRVIEW VILLAGE)

MAIXIMUM 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.