MODESTO CITY COUNCIL
RESOLUTION NO. 2002 – 145

A RESOLUTION APPROVING THE RECOMMENDATIONS OF THE ANTI-LITTER PROJECT TEAM AND DIRECTING STAFF TO RETURN WITH IMPLEMENTATION PLANS.

WHEREAS, the City of Modesto has adopted a Strategic Plan which includes as a desired objective visually improving the community through beautification and anti-litter projects, and

WHEREAS, an Anti-Litter Project Team has been formed, composed of citizens-at-large, civic groups, city staff, and other outside agencies, to develop ideas for an anti-litter campaign which includes education, community activism, and enforcement, and

WHEREAS, by an agenda report to the City Council from the Operations & Maintenance Department, dated March 15, 2002, the Anti-Litter Project Team sets forth its recommendations as follows:

1. Designate April as "Keep Modesto Beautiful" month, as part of the Keep California Beautiful anti-litter campaign.

2. Support April 27, 2002 as "Clean our Community Day" in Modesto.

3. Support staff efforts to enact local anti-litter ordinances.

4. Consider supporting a cost share with Stanislaus County at a cost of $10,000 per year to each agency, to allow for supplemental litter pickup on Highway 99, through the adopt a highway program, placing litter removal on a twice-monthly basis.

5. Continue funding for a Deputy Sheriff to oversee inmate crews picking up litter along 58 miles of city street right-of-ways ($83,000 per year).

6. Reestablish Neighborhood Environmental Action Teams to adopt major roadway areas for litter removal within the city limits.

7. Support a campaign to cover loads going to landfill and to and from construction sites. Support spot enforcement by the Modesto Police Department and other agencies for citations during the month of April.

8. Support development of a brochure to be handed out at the transfer stations informing people of the requirement to cover loads.
9. Establish an anti-litter hotline to report offenders.

10. Endorse the development of integrated school curriculum for targeted age groups.

11. Endorse the continuance of illegally dumped materials being removed promptly by waste haulers.

and

WHEREAS, on March 20, 2002, the Community Development & Housing Committee met and approved the recommendations of the Anti-Litter Project Team,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the recommendations of the Anti-Litter Project Team as set forth above. However, approval of Recommendation No. 4 is conditioned upon a donation of the $10,000 necessary to implement that recommendation by the Plumbers and Pipefitters Local Union No. 442 as offered by said Union's Business Manager, Larrell Fortner, at the meeting.

BE IT FURTHER RESOLVED that staff is directed to return to the City Council with plans for the implementation of these recommendations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of March, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Mayor 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-146

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 OPERATING BUDGET TO TRANSFER $30,000 FROM THE GENERAL FUND RESERVE TO 0100-380-3801-1060, YOUTH SCHOLARSHIPS TO PROVIDE ADDITIONAL FUNDING FOR THE YOUTH FINANCIAL ASSISTANCE PROGRAM.

WHEREAS, the City of Modesto has a financial assistance program available to income-eligible youth, disabled adults and seniors, and
WHEREAS, $109,000 has been allocated to the program for the past three years, and
WHEREAS, $84,000 was allocated to the program for Fiscal Year 2001-02, all of which has already be appropriated to current card holders, and
WHEREAS, there are approximately 400 pending applications for which there is no funding, and
WHEREAS, the Financial Policy Committee considered this item at its January 24, 2002, and February 28, 2002 meetings, and supports staff’s recommendation to increase funding by $30,000 for Fiscal Year 2001-02,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2001-02 operating budget is hereby amended to transfer $30,000 from the General Fund Reserve, 0100-800-8000-8003, to 0100-380-3801-1060, Parks Recreation and Neighborhoods Department, Community Services, Youth Scholarships.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Sabatino

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-147

A RESOLUTION DIRECTING THE FINANCE DEPARTMENT TO INCREASE THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT FISCAL YEAR 2002-03 TARGET BY $30,000 TO BE ALLOCATED TO 0100-380-3801-1060, YOUTH SCHOLARSHIPS TO PROVIDE ADDITIONAL FUNDING FOR THE YOUTH FINANCIAL ASSISTANCE PROGRAM.

WHEREAS, the City of Modesto has a financial assistance program available to income-eligible youth, disabled adults and seniors, and
WHEREAS, $109,000 has been allocated to the program for the past three years, and
WHEREAS, $84,000 was allocated to the program for Fiscal Year 2001-02, and
WHEREAS, this funding was increased by $30,000 by separate action of the City Council on April 2, 2002, and
WHEREAS, the Financial Policy Committee considered this item at its January 24, 2002, and February 28, 2002 meetings, and supports staff's recommendation to increase funding by $30,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Finance Department is hereby directed to increase the Parks, Recreation and Neighborhoods Department Fiscal Year 2002-03 target by $30,000 to be allocated to 0100-380-3801-1060, Youth Scholarships.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Sabatino

Attest: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

04/02/02/PR&N/D Conder

2002-147
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-148


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

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

WHEREAS, the Citizen’s Advisory Committee on Recycling (CACOR) sponsors the event, and the 13th Annual “Earth Day in the Park” will be held on Saturday, April 20, 2001, at Graceada Park, and

WHEREAS, “Earth Day in the Park Festival, 2001!” drew 88 vendors and an estimated 10,000 residents, and

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

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

WHEREAS, as in prior years’ events, the Committee seeks Council approval for the sale of merchandise in the Park during the event, and

WHEREAS, this event provides a forum for merchants to display and sell their “environmentally friendly” merchandise, and for the creation of a “festival atmosphere”, while giving the public an opportunity to make purchases of positive benefit to the environment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City hereby affirms its co-sponsorship of “Earth Day in the Park Festival, 2002!”, at Graceada Park.

BE IT FURTHER RESOLVED by the Council that it hereby approves the sale of merchandise at Graceada Park during the “Earth Day in the Park Festival, 2002!” event.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, 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

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  Mayor Sabatino

ATTEST:  Jean Zahr

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
A RESOLUTION REJECTING BIDS FOR THE PROJECT TITLED “INSTALL EMERGENCY GENERATORS AT WELL 57 AND TANKS 6, 7, & 8”

WHEREAS, the bids received for Install Emergency Generators at Well 57 and Tanks 6, 7, & 8 were opened at 11:00 a.m. on February 5, 2002,

WHEREAS, during the bid evaluation process, staff determined that the generators, proposed by the low bidder, were not of the same manufacturer as intended, therefore staff recommends bids be rejected and the specifications be revised and re-solicitation for this service be conducted at a later date,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for Install Emergency Generators at Well 57 and Tanks 6, 7, & 8, opened in the office of the City Clerk on February 5, 2002, are hereby rejected.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, by Councilmember, who moved its adoption, which motion being duly seconded by Councilmember, 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: [Signature]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-150

A RESOLUTION ACCEPTING THE PROJECT TITLED "INSTALLATION OF TRAFFIC SIGNAL AT S.R. 99 SOUTHBOUND RAMPS AND KANSAS AVENUE" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled Installation of Traffic Signal at S. R. 99 Southbound Ramps and Kansas Avenue, has been completed by Steiny & Company, Inc., in accordance with the contract agreement dated June 27, 2000.

NOW, THEREFORE, BE IT RESOLVED that the Installation of Traffic Signal at S. R. 99 Southbound Ramps and Kansas Avenue project be accepted from said contractor, Steiny & Company, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $93,492.00 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 2nd day of April, 2002, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST:

JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
MODERATO CITY COUNCIL
RESOLUTION NO. 2002-151

A RESOLUTION APPROVING A MANAGEMENT SERVICES AGREEMENT WITH GREGORY BAIRD, GOVERNMENT CONSULTING SERVICES ("SERVICE PROVIDER") AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, on December 6, 2001, the City of Modesto entered into a letter agreement with Gregory Baird for interim management services, and

WHEREAS, the City has determined a need for additional interim management services, and

WHEREAS, the Service Provider represents that it is qualified, willing and able to provide the financial management services requested, and

WHEREAS, the City Council is required to approve all contracts over $50,000,

WHEREAS, the City Council determined that the contract should have a termination date of July 15, 2002 and that the fees paid under the contract should not exceed $100,000

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Management Services Agreement with Gregory Baird, Government Consulting Services, is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION WAIVING FORMAL BID PROCEDURES BY FIVE (5) AFFIRMATIVE VOTES AND APPROVING A TWO (2) YEAR CORPORATE DIGITAL ADVANTAGE (CDA) AGREEMENT WITH AT&T WIRELESS FOR AN APPROXIMATE ANNUAL COST OF $66,000.00 WITH AN ADDITIONAL TWO (2) YEAR EXTENSION OPTION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, select City of Modesto employees while in the course of conducting official City business have shown a demonstrated need to use cellular phones, and

WHEREAS, the City has been using AT&T Wireless service to provide said service and phones since 1993, and

WHEREAS, AT&T as part of said service conducts annual service audits to determine if the City is taking advantage of the most cost effective rate plan, and

WHEREAS, the findings of said audit showed that the City would show a significant cost (approximately $9,000.00 annually) and time savings, in addition to receiving “service benefits,” by signing a Corporate Digital Advantage (CDA) agreement with AT&T, and

WHEREAS, “service benefits” include but are not limited to; family members of City of Modesto employees having access to the City plan and a custom CD-ROM billing tool, and

WHEREAS, the Purchasing Division has evaluated alternate AT&T plans available, including the State of California AT&T which does not include receiving “service benefits” and which the City would have to pay a fee to access, and

WHEREAS, the Purchasing Officer has determined that a process other than the formal bid procedures set forth in Section 8-3.204 of the Modesto Municipal Code will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, the AT&T CDA plan was presented to the Audit Committee at its meeting on February 13, 2002.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a two (2) year Corporate Digital Advantage (CDA) agreement...
with AT&T Wireless for an approximate annual cost of $66,000 with an additional, two (2) year extension option.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: ____________________________
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By: ________________________________
Michael D. Milich, City Attorney
A RESOLUTION GRANTING THE APPEAL OF ERIK AND CATRINA LUNDEBERG, CLAYTON KENNETH GOTTschALK, ELIZABETH DIDDION AND JOHN YOUNG, DEBBIE AND RON RENZ, AND DAVID A. AND JEANNIE OLSON TO A BOARD OF ZONING ADJUSTMENT DECISION DENYING THEIR APPEAL TO A STAFF DECISION APPROVING A SECOND STORY ADDITION TO A HOME LOCATED AT 1013 ENCINA AVENUE

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

WHEREAS, on October 8, 2001, Linda Chilles submitted plot plans and elevations for a second story addition to the home located at 1013 Encina Avenue, and

WHEREAS, per City policy, a letter was mailed to adjoining property owners on October 11, 2001, to inform them of the proposed addition; and

WHEREAS, the revised plans staff requested from the applicant were received on October 23, 2001; and

WHEREAS, after review, it was determined by staff that the revised plans conformed to City standards for second story additions; and

WHEREAS, on November 1, 2001, the Director issued a letter of approval of the second-story addition to the applicant and adjoining property owners; and

WHEREAS, on November 15, 2001, Erik and Catrina Lundeberg, Clayton Kenneth Gottschalk, Elizabeth Diddion and John Young, Debbie and Ron Renz, and David A. Olson and Jeannie Olson filed an appeal of this decision to the Board of Zoning Adjustment pursuant to Section 10-2.2801 of the Municipal Code; and

WHEREAS, a public hearing was be held by the Board of Zoning Adjustment on December 20, 2001, 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. 2001-26 the Board of Zoning Adjustment denied the appeal and approved the second story addition to the home located at 1013 Encina Avenue subject to the following modifications to the site plan:
1. The west-facing windows on the second story, as shown on the plan before the Board, shall be deleted, but may be replaced by clerestory windows. Any conventional opening windows shall be located on the south side of the second story.

2. The exterior doorway on the east side of the building shall be deleted, and replaced by an internal connecting door between the addition and the existing garage.

3. Climbing vines as approved by the Chief Building Official shall be installed on the north wall of the proposed addition, and shall be maintained by the property owner.

WHEREAS, an appeal to the decision of the Board of Zoning Adjustment was filed with the Office of the City Clerk by the above mentioned appellants on January 23, 2002, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, at 5:15 p.m. on February 12, 2002, 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 found and determined that said appeal to the decision of the Board of Zoning Adjustment should be granted and the decision of the Board of Zoning Adjustment should be reversed for the following reason:

The second story addition is incompatible with the adjoining residential uses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Erik and Catrina Lundeberg, Clayton Kenneth Gottschalk, Elizabeth Diddion and John Young, Debbie and Ron Renz, and David A. Olson and Jeannie Olson, to the decision of the Board of Zoning Adjustment denying the appeal to a staff decision approving a second story addition to a home located at 1013 Encina Avenue is granted, and the decision of the Board of Zoning Adjustment is hereby affirmed for the reasons set forth above.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Jackman, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: ____________________
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-154

A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN LAND USE DIAGRAM TO REDESIGNATE PROPERTY LOCATED BETWEEN ROSEBURG AND MENSINGER AVENUES WEST OF MCHENRY AVENUE FROM RESIDENTIAL TO MIXED USE.

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report ("EIR") for the Urban Area General Plan (SCH No. 92052017), and

WHEREAS, a new General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", as recommended by the Modesto City Planning Commission, was adopted by the Council of the City of Modesto by Resolution No. 95-409 on August 15, 1995, and

WHEREAS, said General Plan has been amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, and 2001-476 copies of which are on file in the office of the City Clerk, and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body, and

WHEREAS, Mid-Valley Engineering has applied for an amendment to the General Plan to redesignate one acre located between Roseburg and Mensinger Avenues west of McHenry Avenue from Residential to Mixed Use to allow office development, and

WHEREAS, the Community Development Department has analyzed the proposed amendment and concluded that the site is in an appropriate location for offices, in that it is located on a Minor Arterial street and is immediately adjacent to existing commercial uses and is compatible with nearby single-family housing, and

WHEREAS, on February 11, 2002, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan Land Use Diagram, and
WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2002-10, recommending to the City Council an amendment to the Modesto Urban Area General Plan Land Use Diagram to redesignate one acre located between Roseburg and Mensinger Avenues west of McHenry Avenue from Residential to Mixed Use, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on March 26, 2002, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan Land Use Diagram,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban Area General Plan Land Use Diagram to redesignate one acre located between Roseburg and Mensinger Avenues west of McHenry Avenue from Residential to Mixed Use is in the public interest and is required for the public health, safety and welfare of the citizens of Modesto and said General Plan is hereby amended to read as shown on Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certify copies of this resolution and said amendment to the General Plan to the Board of Supervisors of the County of Stanislaus.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, 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: Fisher, Frohman, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Mayor Sabatino

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
EXHIBIT "A"
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-155

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN
THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN
AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT
(SCH NO. 92052017): AMENDING THE MODESTO URBAN AREA GENERAL
PLAN LAND USE DIAGRAM TO REDESIGNATE ONE ACRE FROM
RESIDENTIAL TO MIXED USE PROPERTY LOCATED BETWEEN
ROSEBURG AND MENSINGER AVENUES WEST OF MCHENRY AVENUE
(MID-VALLEY ENGINEERING)

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

WHEREAS, Mid-Valley Engineering has proposed an amendment to the Modesto
Urban Area General Plan Land Use Diagram to redesignate property located between
Roseburg and Mensinger Avenues west of McHenry Avenue from Residential to Mixed
Use, 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 (MEIR) 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 Development Department by Environmental
Assessment Initial Study CDD 2002-01 reviewed the proposed amendment to the
Modesto Urban Area General Plan Land Use Diagram to determine whether the project is
within the scope of the project covered by the Modesto Urban Area General Plan 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, said matter was considered by the City Council at a duly noticed public hearing which was held on April 2, 2002, at 5:15 p.m., in the Tenth Street Place Chambers located at 1010 10th 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/CDD 2002-01, entitled "City of Modesto Initial Study General Plan Amendment and Rezone from R-1 & R-3 to P-D," for the proposed project, and the Council hereby makes the following findings:

1. That the project will have no new additional significant effects on the environment which were not identified in the Master EIR, and no new or additional mitigation measures would be required.
2. 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).
3. 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 Master EIR will be sufficient for this project.
4. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.
5. The initial study, Environmental Assessment No. EA/CDD 2002-01, provides the substantial evidence to support the above findings.

A copy of said Environmental Assessment No. EA/CDD 2002-01, entitled "City of Modesto Initial Study General Plan Amendment and Rezone from R-1 & R-3 to P-D," 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 2nd day of April, 2002, 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: Fisher, Frohman, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Mayor Sabatino

ATTEST: Jean Zahr

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
EXHIBIT "A"

INITIAL STUDY

EA/CDD NO. 2002-01
General Plan Amendment and Rezone from R-1 & R-3 to P-D

EA/CDD 2002-01
January 18, 2002

I. PURPOSE

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

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

II. PROJECT DESCRIPTION

A. Project title:
   Public Hearing - Application of Mid-Valley Engineering for General Plan amendment and rezone from R-1 (Low-Density Residential Zone) and R-3 (Medium-High Density Residential Zone) to P-D (Planned Development Zone) to allow a 20,000 square-foot professional office development, property located between Roseburg and Mensinger Avenues west of McHenry Avenue.

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

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

D. Project Location:
   Between Roseburg and Mensinger Avenues west of McHenry Avenue.

E. Project Sponsor:
   Mid-Valley Engineering

F. General Plan Designation:
   Commercial (C) and Residential (R); amended to Commercial (C) and Mixed Use (MU)

G. Current Zoning:
   Low-Density Residential (R-1) and Medium-High Density Residential (R-3)
H. **Description of Proposed Projects:**
   This is an application to amend the General Plan land use diagram and rezone four parcels totaling approximately 1.8 acres from R-1 (Low-Density Residential Zone) and R-3 (Medium-High Density Residential Zone) to P-D (Planned Development Zone), to allow a 20,000 square-foot professional office development located between Roseburg and Mensinger Avenues west of McHenry Avenue. The applicant's site plan calls for two 10,000 square-foot, single-story office buildings and off-street parking with access to Roseburg Avenue within the interior of the site.

I. **Surrounding land uses:**
   Single-family homes exist to the south of the subject property, across Mensinger Avenue; multi-family residential land uses border the west side. Commercial uses exist to the east, along McHenry Avenue and to the north, across Roseburg Avenue.

J. **Other public agencies whose approval is required:**
   None

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

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

   A. **Traffic and Circulation**
      The proposed General Plan amendment and planned development zone for professional office uses will contribute to increased traffic in the neighborhood. However, the proposed development is consistent with the Traffic and Circulation needs section of the MEIR. A traffic analysis report (attached to Commissioner's agendas) has been prepared for the proposed project by KD Anderson Transportation Engineers. This study concludes that the proposed change in land use associated with the General Plan amendment would not have a significant impact on traffic conditions in the area. The traffic report has been reviewed by staff within the City's Traffic Division, and its conclusions have been verified. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

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

   C. **Generation of Noise**
      The proposed General Plan amendment and planned development zone for professional office uses is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of commercial and residential uses. Because of building walls, fencing and structure setbacks, the Day-Night Average Sound Level (Ldn) for this neighborhood can be ensured. No significant noise impacts will be generated as a result of the proposed professional office use, nor will the adjacent neighborhood be impacted as a result of this use. It will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.
D. **Loss of Productive Agricultural Land**
The proposed General Plan amendment and planned development zone for professional office uses is located on property noted as Urban and Built-Up Land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. Also, the requested planned development zone and resulting professional office development is subject to conditions of approval. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.

E. **Increased Demand for Water Supplies**
The proposed General Plan amendment and planned development zone for professional office uses will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are therefore still valid.

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

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

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

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

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

K. Increased Demand for Parks and Open Space
The proposed General Plan amendment and planned development zone for professional office uses will not have an effect upon the parks or open space needs in the area. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are therefore still valid.

L. Increased Demand for Schools
The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

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

N. Increased Demand for Fire Services
The proposed General Plan amendment and planned development zone for professional office uses will have a less than significant impact upon the need for additional fire services to this area. Fire Station Number 5 is located approximately one mile away, near the intersection of Briggsmore Avenue and McHenry Avenue. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are therefore still valid.

O. Generation of Solid Waste
The proposed General Plan amendment and planned development zone for professional office uses will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10), are therefore still valid.

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

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

R. **Energy**

The proposed General Plan amendment and planned development zone for professional office uses will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV. **CONCLUSIONS / DETERMINATIONS OF FINDINGS**

A. The proposed General Plan amendment and planned development zone for a 20,000 square-foot professional office development is within the scope of the General Plan Master EIR (SCH No. 92052017) which analyzed the potential impacts of buildout of the Baseline Development Area.

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

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

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

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

Signature:

Brad Wall,
Associate Planner
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-156

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(553). (MID-VALLEY ENGINEERING, INC.)

WHEREAS, a verified application for an amendment to Section 20-3-9 of the Zoning Map was filed by Mid-Valley Engineering on October 15, 2001, to reclassify from Low-Density Residential Zone, R-1, and Medium-High-Density Residential Zone, R-3, to Planned Development Zone, P-D(553), to allow a 20,000-square-foot professional office complex and associated off-street-parking, property located between Roseburg and Mensinger Avenues west of McHenry Avenue described as follows:

ALL that certain real property situate in and being a portion of the Northeast Quarter of the Southeast Quarter of Section 20, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, being more particularly described as follows:

BEGINNING at the Northeast corner of PARCEL “B” as shown on the map filed for record on July 29, 1997 in Book 48 of Parcel Maps at Page 36, Stanislaus County Records, with said point lying on the South right-of-way line of Roseburg Avenue; thence South 00°16'50" East along the East line of said PARCEL “B” and the Southerly extension thereof, a distance of 372.34 feet to a point on the North right-of-way line of Mensinger Avenue; thence North 88°14'41" West along last said right-of-way line, a distance of 216.03 feet; thence leaving last said right-of-way line and proceeding North 00°17'27" West, a distance of 219.58 feet; thence South 88°13'38" East, a distance of 16.63 feet; thence North 00°17'23" West, a distance of 152.92 feet to a point on the above mentioned South right-of-way line of Roseburg Avenue; thence South 88°12'04" East along last said right-of-way line, a distance of 199.47 feet to the POINT OF BEGINNING;

also including the north one-half of Mensinger Avenue and the south one-half of West Roseburg Avenue, all being immediately adjacent to the above described property.

WHEREAS, after a public hearing held on February 11, 2002, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2002-11, that rezoning of
the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Planned Development Zone, by reason of its site design and conditions of approval is compatible with existing and potential surrounding development.

2. The requested Planned Development Zone for a professional-office development is located on a collector street, and will provide a good transitional use between commercial development on McHenry Avenue and the adjacent residential neighborhood.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 2, 2002, in the Tenth Street Place Chambers located at 1010 10th 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 Mid-Valley Engineering 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. 2002-11 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3252-C.S. on the 26th day of March 2002, reclassifying the above-described property from Low-Density Residential Zone, R-1, and Medium-High-Density Residential Zone, R-3, to Planned Development Zone, P-D(553).

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(553), is hereby approved subject to the following conditions:

1. The applicant shall submit revised plot plans and elevations showing all changes required by the Planning Commission and City Council prior to issuance of a building permit. All development shall conform to these revised plans and elevations as amended in red, stamped approved by the City Council.
2. Fences or walls shall be constructed prior to occupancy and shall be as follows: Six-foot-high masonry wall along the west property line; six-foot high masonry wall between the building and side property boundaries along the south property line.

3. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Chief Building Official. Screen landscaping shall be installed along the east, west, and south property line(s). Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. 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 Development Department Director.

6. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Operations and Maintenance Director. Storm drain improvements shall be constructed in accordance with the approved plans.

7. Existing overhead and underground electric facilities shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Engineering and Transportation Director.

8. 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.

9. 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.
10. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.

11. Ten-foot public utility easements and four-foot planting easements located within the ten-foot public utility easements shall be dedicated along all street frontages as required by the Engineering and Transportation Director.

12. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the Engineering and Transportation Director.

13. All signs shall comply with the sign requirements of the P-O Zone.

14. All outdoor lighting shall be shielded from adjacent residential properties as required by the Engineering and Transportation Director.

15. The developer shall indemnify, defend and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to arbitrate, attack, review, set aside, void, or annul, any approval by the City of Modesto of a development approval. The City of Modesto shall promptly notify the developer of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the developer shall not thereafter be responsible to defend, indemnify, or hold City harmless.

16. No pedestrian nor vehicular access shall be allowed to/from Mensinger Avenue.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(553):

The entire construction program is to be accomplished in one phase, construction to begin April 2, 2004, and completion to be no later than April 2, 2005.
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(553), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, 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: Fisher, Frohman, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Mayor Sabatino

ATTEST:  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
MICHAEL D. MILICH, City Attorney

APPROVED AS TO DESCRIPTION:

By:  
Steve Mitchell
Community Development Department Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-157

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): AMENDING SECTION 20-3-9 OF THE ZONING MAP TO REZONE FROM LOW-DENSITY RESIDENTIAL ZONE, R-1, AND MEDIUM-HIGH-DENSITY RESIDENTIAL ZONE, R-3 TO PLANNED DEVELOPMENT ZONE, P-D(553), PROPERTY LOCATED BETWEEN ROSEBURG AND MENSINGER AVENUES WEST OF McHENRY AVENUE. (MID-VALLEY ENGINEERING)

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

WHEREAS, Mid-Valley Engineering has proposed that the zoning designation for the property located between Roseburg and Mensinger Avenues west of McHenry Avenue, be amended to rezone from Low-Density Residential Zone, R-1, and Medium-High-Density Residential Zone, R-3 to Planned Development Zone, P-D(553), in the City of Modesto ("the project"), to allow for a 20,000-square-foot professional office complex and associated off-street-parking, 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 (MEIR) 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 Development Department by Environmental Assessment Initial Study CDD 2002-01 reviewed the proposed amendment to the Zoning Map and rezone to P-D(553) project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan 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, said matter was considered by the City Council at a duly noticed public hearing which was held on April 2, 2002, at 5:15 p.m., in the Tenth Street Place Chambers located at 1010 10th 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(553) 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 project will have no new additional significant effects on the environment which were not identified in the Master EIR, and no new or additional mitigation measures would be required.

2. 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).

3. 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 Master EIR will be sufficient for this project.

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

5. The Initial Study, Environmental Assessment No. EA/CDD 2002-01, provides the substantial evidence to support the above findings.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, 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: Fisher, Frohman, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Mayor Sabatino

ATTEST: 

JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
EXHIBIT "A"

INITIAL STUDY

EA/CDD NO. 2002-01
City of Modesto
Initial Study

General Plan Amendment and Rezone from R-1 & R-3 to P-D

EA/CDD 2002-01
January 18, 2002

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. 920502017), adopted August 15, 1995, allows such limited review for projects in the Baseline Developed Area that are consistent with and within the scope of the Master EIR.

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

II. PROJECT DESCRIPTION

A. Project title:
Public Hearing - Application of Mid-Valley Engineering for General Plan amendment and rezone from R-1 (Low-Density Residential Zone) and R-3 (Medium-High Density Residential Zone) to P-D (Planned Development Zone) to allow a 20,000 square-foot professional office development, property located between Roseburg and Mensinger Avenues west of McHenry Avenue.

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

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

D. Project Location:
Between Roseburg and Mensinger Avenues west of McHenry Avenue.

E. Project Sponsor:
Mid-Valley Engineering

F. General Plan Designation:
Commercial (C) and Residential (R); amended to Commercial (C) and Mixed Use (MU)

G. Current Zoning:
Low-Density Residential (R-1) and Medium-High Density Residential (R-3)
H. Description of Proposed Projects:
This is an application to amend the General Plan land use diagram and rezone four parcels totaling approximately 1.8 acres from R-1 (Low-Density Residential Zone) and R-3 (Medium-High Density Residential Zone) to P-D (Planned Development Zone), to allow a 20,000 square-foot professional office development located between Roseburg and Mensinger Avenues west of McHenry Avenue. The applicant's site plan calls for two 10,000 square-foot, single-story office buildings and off-street parking with access to Roseburg Avenue within the interior of the site.

I. Surrounding land uses:
Single-family homes exist to the south of the subject property, across Mensinger Avenue; multi-family residential land uses border the west side. Commercial uses exist to the east, along McHenry Avenue and to the north, across Roseburg Avenue.

J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

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

A. Traffic and Circulation
The proposed General Plan amendment and planned development zone for professional office uses will contribute to increased traffic in the neighborhood. However, the proposed development is consistent with the Traffic and Circulation needs section of the MEIR. A traffic analysis report (attached to Commissioner's agendas) has been prepared for the proposed project by KD Anderson Transportation Engineers. This study concludes that the proposed change in land use associated with the General Plan amendment would not have a significant impact on traffic conditions in the area. The traffic report has been reviewed by staff within the City's Traffic Division, and its conclusions have been verified. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-38) are still valid.

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

C. Generation of Noise
The proposed General Plan amendment and planned development zone for professional office uses is adjacent to and surrounded by urban development. The adjacent developed neighborhood contains a mixture of commercial and residential uses. Because of building walls, fencing and structure setbacks, the Day-Night Average Sound Level (Ldn) for this neighborhood area can be ensured. No significant noise impacts will be generated as a result of the proposed professional office use, nor will the adjacent neighborhood be impacted as a result of this use. It will not create additional significant effects and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.
D. **Loss of Productive Agricultural Land**
The proposed General Plan amendment and planned development zone for professional office uses is located on property noted as Urban and Built-Up Land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. Also, the requested planned development zone and resulting professional office development is subject to conditions of approval. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.

E. **Increased Demand for Water Supplies**
The proposed General Plan amendment and planned development zone for professional office uses will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are therefore still valid.

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

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

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

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

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

K. Increased Demand for Parks and Open Space
The proposed General Plan amendment and planned development zone for professional office uses will not have an effect upon the parks or open space needs in the area. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are therefore still valid.

L. Increased Demand for Schools
The MEIR concluded that demand for schools would be mitigated by collection of fees by the affected school districts. Since this project would be required to pay these fees, as applicable, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

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

N. Increased Demand for Fire Services
The proposed General Plan amendment and planned development zone for professional office uses will have a less than significant impact upon the need for additional fire services to this area. Fire Station Number 5 is located approximately one mile away, near the intersection of Briggsmore Avenue and McHenry Avenue. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are therefore still valid.

O. Generation of Solid Waste
The proposed General Plan amendment and planned development zone for professional office uses will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10), are therefore still valid.

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

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

R. Energy
The proposed General Plan amendment and planned development zone for professional office uses will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV. CONCLUSIONS / DETERMINATIONS OF FINDINGS

A. The proposed General Plan amendment and planned development zone for a 20,000 square-foot professional office development is within the scope of the General Plan Master EIR (SCH No. 92052017) which analyzed the potential impacts of buildout of the Baseline Development Area.

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

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

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

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

Signature:

Brad Wall,
Associate Planner
A RESOLUTION ADOPTING THE TENTH STREET PLAZA USAGE POLICY FOR 10TH STREET BETWEEN “J” AND “K” STREETS IN DOWNTOWN MODESTO.

WHEREAS, with the completion of Tenth Street Place and 1020 Tenth Street, there is an opportunity to use the outdoor plaza for public events and activities, and

WHEREAS, the Tenth Street Management Committee (Management Committee) has met on numerous occasions to develop the Tenth Street Plaza Usage Policy, and

WHEREAS, the proposed planning by the Management Committee for this outdoor venue includes the adjoining street section, recognizing that the City Council will ultimately need to decide on the use of that space, and

WHEREAS, the Tenth Street Plaza Usage Policy sets forth management and coordination of the plaza, use of the plaza for public events, scheduling the plaza, and for use of the plaza, and

WHEREAS the Ad Hoc Music Committee agrees with the Tenth Street Plaza Usage Policy proposed by the Management Committee, and

WHEREAS, the Human Services Committee met on March 4, 2002, and supported the recommended Tenth Street Usage Policy,

WHEREAS, Council determined to eliminate the fees in the recommended policy,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the adoption of the Tenth Street Plaza Usage Policy, a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of April, 2002, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

Attest: Jean Zahr
JEAN Zahr, City Clerk

APPROVED AS TO FORM:

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

TENTH STREET PLAZA USAGE POLICY

EFFECTIVE MAY 17, 2002

GENERAL INFORMATION

Any person or group requesting to use the Tenth Street Plaza to conduct public gathering events, excluding First Amendment activities which are exempt from this policy, must first have obtained all proper permits and licenses. The City of Modesto Parks, Recreation and Neighborhoods Department ("Governing Authority") will assist the Licensee in determining permits required. Licensee shall not conduct, within or upon the premises, any other operations except those described in the license unless prior written consent of the Governing Authority has been given. Licensee, its officers, agents, and employees shall comply with all rules and regulations, laws, and ordinances adopted or established, from time to time, by any governmental agent or department thereof.

1. AREA LOCATION

The Tenth Street Plaza shall be the space occupied by Tenth Street between J and K, as well as the patio area between the south side of the 1020 Tenth Street building and the glass front of Tenth Street Place. (See attached area map.)

2. HOURS OF OPERATION

<table>
<thead>
<tr>
<th>Day</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday through Friday</td>
<td>9 a.m. to 11 p.m.</td>
</tr>
<tr>
<td>Saturday, Sunday, holidays</td>
<td>7 a.m. to 11 p.m.</td>
</tr>
</tbody>
</table>

Load-in times to be determined based upon considerations of employee and consumer ingress/egress into buildings.

Amplified music will be allowed:

<table>
<thead>
<tr>
<th>Day</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday through Friday</td>
<td>8 p.m. to 11 p.m.</td>
</tr>
<tr>
<td>Saturday, Sunday, holidays</td>
<td>Until 11 p.m.</td>
</tr>
</tbody>
</table>

Start times of amplified music on weekdays prior to 8 p.m. will be for special pre-approved events only (e.g., Brownbag lunch series). The start times of amplified music on weekends would be dependent on the type of the event. Extensions beyond 11 p.m. would require special approval by Council (e.g., Exclamation Fest).

3. EXPIRATION OF LICENSE

Licensee shall remove from the facilities all property, goods, and effects belonging to Licensee or caused by him to be brought upon the premises. If property is not removed within the time limits stated in the license, City shall have the right to dispose of, sell, store, or cause to be stored any property, for which Licensee shall pay a penalty fee, plus all storage and moving expenses incurred thereof, prior to release of the property from storage.
At the expiration of the time of use of the facilities set forth, Licensee shall quit the facilities and return all Licensee’s equipment and facilities procured, which premises, equipment, and facilities shall be in as good condition and repair as before Licensee’s use thereof except for ordinary wear and tear.

4. **EXAMPLES OF TYPES OF EVENTS ALLOWED**

Street faire, street festival, farmers market, trade show (limited), displays, musical events (non-amplified), and amplified music events.

5. **AMPLIFIED MUSIC EVENTS**

There will be a sound amplification permit required. Sound amplifying equipment as used here means any machine or device used to amplify or project speech, music, or any other sound or tone. Sound amplifying equipment includes public address systems, megaphones, bullhorns, phonographs, televisions, radios, cassettes, eight-track or reel-to-reel tape players, compact disc or laser players, and musical instruments.

The sound generated shall be controlled so that its volume level, duration, or character does not annoy, disturb, injure, or endanger the comfort of reasonable persons of ordinary sensibility within the City.

6. **PERMITS**

   a. Other permits may be required, such as: liquor, business license, amplified sound, street closure, encroachment. There are additional costs for these permits.

   b. No event that is permitted by the First Amendment of the United States Constitution shall be charged a fee or be required to get a permit from the City.

   c. Any agency of the City of Modesto or County of Stanislaus will be able to use the space free of charge. Additional fees may apply.

7. **INSURANCE**

Indemnity and liability insurance as required by the Risk Manager for the City of Modesto. In most cases the limits of policy will be $1,000,000.

City of Modesto, County of Stanislaus, JPA, Civic Partners of Modesto, Inc., Redevelopment Agency, and 1020 10th L.L.C. must be named as additional insured on the policy.

8. **SCHEDULING/COORDINATION**

The City of Modesto Parks, Recreation and Neighborhoods Department (Centre Plaza) shall be responsible for scheduling/coordinating the use of the Tenth Street Plaza.

9. **PAYMENT FOR DAMAGES**

Licensee agrees to pay costs of repair or replacement for any and all damages of whatever origin or nature to property of City of Modesto, County of Stanislaus, JPA, Redevelopment Agency, or any adjoining private property resulting from Lessee’s exercise of its license, whether deliberate, accidental, or other causes not predicated on active negligence of City.

10. **EVENT INFORMATION**

Licensee shall provide to Events Supervisor, at least 10 days prior to the first day of scheduled event, a full and detailed outline of all event requirements.
11. **SECURITY**

Licensee shall engage and pay for adequate security personnel, to be appropriate for the intended facility use. Number of security personnel utilized to be determined by mutual agreement of Licensee and licensor and the City of Modesto Police Department.

Licensee shall be solely responsible for the orderly conduct of all persons using the premises by its invitation, either expressed or implied, during all times covered by this license. Governing Authority reserves the right to eject or cause to be ejected from the premises any person or persons objectionable due to unlawful conduct.

All private security must be bonded and licensed by the State of California.

12. **BOOKING**

* All scheduling and booking shall be done through the Centre Plaza.

* Dates at Tenth Street Plaza may be booked a maximum of 13 months prior to the requested date.

* Thirty (30) days in advance of the event, regularly scheduled events can be booked. Up to 4 dates can be booked for the month that begins the allowable period (e.g., someone calling on July 1 could book 4 events from August 1-31 of that same year). Two weeks prior to a requested event date, two additional dates can be booked by the same user, for a total of 6 in the month.

* At their sole discretion the Centre Plaza management will establish appropriate spacing for similar public events.

* The Centre Plaza management will hold tentative dates for Tenth Street Plaza that are less than 13 months out for a maximum of six weeks. If the prospective permittee does not call the Governing Authority and request a permit for the tentative hold within that six-week period, the hold will automatically be dropped at the end of the six-week period.

* Requests for the same event space on the same date are handled as follows:

  The prospective permittee that has the date as a tentative will be notified. They will be required to make their deposit payment within three working days. If they fail to do so, their date will be released to the second party. The second party will then be required to make the deposit payment within three working days.

13. **EXAMPLES OF EQUIPMENT THAT WILL HAVE TO BE PROVIDED BY THE LICENSEE**

   Sound
   Staging
   Tables/chairs
   Garbage cans
   Portable restrooms

14. **CAPACITY**

Licensee shall not allow nor permit to allow more people into the Tenth Street Plaza than the determined capacity for the safe, free movement of people therein. Capacity will be determined in consultation with the Modesto City Fire Department and Police Department.
Dedicated paths of travel to businesses may be required.

15. **STORAGE**

There is not on-site storage at the Tenth Street Plaza. Licensee must make all arrangements for having equipment delivered to and removed from the site within the agreed upon timeframe of the facility rental.

16. **BUSINESS LICENSE**

Private individuals and private companies utilizing the Tenth Street Plaza as a place to conduct business may be required to have a City of Modesto business license. One-day licenses can be obtained from the City of Modesto Finance Department at (209) 577-5389.

LICENSEE HAS READ AND UNDERSTANDS THE VENUE POLICIES AS SET FORTH ABOVE. LICENSEE AGREES TO OBSERVE AND ABIDE BY THE RULES AND REGULATIONS GOVERNING THE USAGE OF TENTH STREET PLAZA FOR PURPOSES AS STATED PER LICENSE.
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-159

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 No. 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 1. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Chief Information Officer

As a result of a new position approved in the FY 01-02 budget, the Chief Information Officer position is being created to manage the Information and Technology Department.

The specification for the classification of Chief Information Officer, Range 1422 as shown on the attached Exhibit "A", which is hereby made a part of this resolution by reference, is hereby approved and made a part of the Position Classification Plan of the City of the City of Modesto.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after April 9, 2002.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Frohman,
who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES:  Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST:  
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  
MICHAEL D. MILICH, City Attorney
EXHIBIT "A"

CITY OF MODESTO
No. 1735

CHIEF INFORMATION OFFICER

APRIL, 2002

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

DEFINITION

To plan, direct, and review the activities and operations of the Information & Technology Department including Information Services, System Development & Support Services, Network Services and Geographic Information Systems; to provide leadership and management to ensure effective utilization of automated systems in support of improving and maximizing services and operations throughout the City; to coordinate department activities with other City departments and outside agencies; to direct implementation of the City's Technology Action Plan; to utilize e-commerce and e-government strategies to improve service delivery to internal and external customers; and to carry out the Information & Technology Department objectives and action items identified in the City's Strategic Plan.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the City Manager.

Exercises direct supervision over professional, technical and support staff.

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

Essential Functions:

Develop and direct the implementation of goals, objectives, policies, procedures and work standards for the department.

Direct, oversee and participate in execution of the department's Strategic Plan action items, including assigning work activities, projects and programs, monitoring work flow; reviewing and evaluating work products, methods and procedures, and reporting progress on plan implementation to the City Manager.

Develop policy and propose long-range strategies for leveraging information technology within the City, including addressing systems integration needs and refining the Technology Action Plan.
ESSENTIAL AND MARGINAL FUNCTION STATEMENTS (continued)

**Essential Functions:**

Work with consultants, advisory teams, technology providers, and other sources of relevant information and expertise in order to recommend policy direction to the City Manager and Council for technology enhancements.

Utilize Customer Relations Management (CRM) and other strategies to improve internal and external customer relations, ensuring effective customer service support, timely assistance, swift resolution of problems and expeditious review of user complaints.

Provide users with cost effective long-range solutions to complex systems and technical problems.

Oversee the completion of comprehensive information technology studies; review reports of findings and make recommendations, as appropriate.

Work with citizen groups, commissions, and committees to support the understanding, development and use of information technology within the City.

Select, train, motivate and evaluate personnel; provide or coordinate staff training; coach and work with employees to correct deficiencies; implement discipline and termination procedures as necessary.

Conduct research, analysis, and special studies on complex and sensitive administrative and policy issues, and prepare reports with recommendations for appropriate action.

Provide professional analysis and advice to the City Council, City Manager, City departments and committees related to areas of responsibility.

**QUALIFICATIONS:**

**Knowledge of:**

Best practices, strategies, methodologies, and policies used in information technology applicable to business and municipal operations.

Administrative principles and method, including organizational planning techniques, staffing, goal setting, performance measurement, program and budget development.
QUALIFICATIONS (continued)

Knowledge of:

Principles and practices of effective employee supervision, including selection, training, performance evaluation, coaching and discipline.

Best practices and current state-of-the-art information systems technology.

Ability to:

Oversee and direct the activities of the Department.

Effectively represent the Department before the Council, Council Committees, boards, commissions, public agencies and private groups.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with the Senior Executive Team, Mayor and Council, community leaders and others contacted in the course of work.

Utilize technology to improve service delivery.

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:

Six years of professional management experience in information technology, including information systems design and implementation in a centralized information technology environment. Experience must include the oversight of professional staff.
Training:

Equivalent to graduation from an accredited college or university with major course work in computer science, business administration, mathematics, engineering or a related field.

License or Certificate

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

WORKING CONDITIONS

   Environmental Conditions:

   Office environment.

   Physical Conditions:

   Essential and marginal functions may require maintaining physical conditions necessary for sitting for prolonged periods of time; and operating a personnel computer and other office equipment.
A RESOLUTION AMENDING EXHIBIT "I" OF RESOLUTION NO. 2001-270 TO REVISE THE CLASS RANGE TABLE FOR EXECUTIVE MANAGEMENT TO ESTABLISH THE SALARY RANGE FOR THE CLASSIFICATION OF CHIEF INFORMATION OFFICER EFFECTIVE APRIL 9, 2002.

WHEREAS, the City Council desires to amend Exhibit "I" of Resolution No. 2001-270,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2001-270. Exhibit "I" entitled "City of Modesto Class Range Table Executive Management Effective June 19, 2001", is hereby amended as shown on the amended Exhibit "I" entitled "City of Modesto Class Range Table Executive Management Classes Effective April 9, 2002", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "I" establishes the salary range for Chief Information Officer at (Range 1422).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 9th, 2002.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2001, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll 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: [Signature]

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By [Signature]

MICHAEL D. MILICH, City Attorney

2002-160
### CITY OF MODESTO
### CLASS RANGE TABLE
### EXECUTIVE MANAGEMENT

#### Effective April 9, 2002

<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1410</td>
<td>City Clerk/Auditor</td>
</tr>
<tr>
<td>1411 – 1417</td>
<td></td>
</tr>
<tr>
<td>1418</td>
<td></td>
</tr>
<tr>
<td>1419</td>
<td></td>
</tr>
</tbody>
</table>
| 1420   | Finance Director  
Operations and Maintenance Director  
Personnel Director  
Recreation and Neighborhoods Director |
| 1421   |                                                |
| 1422   | **Chief Information Officer**  
Community Development Director |
| 1423   | Engineering and Transportation Director       |
| 1424   |                                                |
| 1425   | Fire Chief  
Police Chief                                     |
| 1426   |                                                |
| 1427   | Deputy City Manager                            |
| 1428   | City Attorney                                  |
| 1429 – 1432 |                                                |
| 1433   | City Manager                                  |
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT BIDS FOR THE INTERNAL COATING OF DIGESTER #2 AT THE PRIMARY WASTEWATER TREATMENT PLANT

WHEREAS, the Operations and Maintenance Department is responsible for maintaining equipment for processing sludge at the Primary Wastewater Treatment plant, and

WHEREAS, the Operations and Maintenance Department has determined that the protective Internal Coating of Digester #2 needs to be replaced, and

WHEREAS, digesters are used in the primary or solids removal process of wastewater treatment, and

WHEREAS, a digester is essentially a domed tank, made of steel, which stores 2 million gallons of wastewater sludge within a heated environment, and

WHEREAS, said sludge contains sand and grit which wears upon the inside protective coating of said tank as it is re-circulated through the tank and associated treatment equipment, and

WHEREAS, a protective urethane coating lasts on the average of eight to ten years before replacement, and

WHEREAS, the last Internal Coating of Digester #2 was performed in 1984, and

WHEREAS, the anticipated cost of the Internal Coating of Digester #2 will be approximately $200,000.00, and

WHEREAS, by soliciting competitive bids for the Internal Coating of Digester #2, the Finance Department-Purchasing Division will achieve the best value for said coating and will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal bid procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the formal solicitation of bids for the Internal Coating of Digester #2 is hereby authorized as follows:
SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the Internal Coating of Digester # 2 to be opened in the office of 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 the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-161

A RESOLUTION ACCEPTING THE BID OF SOARES PIPELINE, INC. FOR THE PROJECT TITLED “2002 SANITARY SEWER REPLACEMENTS”

WHEREAS, the bids received for 2002 Sanitary Sewer Replacements were opened at 11:00 a.m. on March 19, 2002, 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 $698,217 received from Soares Pipeline, Inc. be accepted as the lowest responsible bid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of Soares Pipeline, Inc. be accepted and the execution of a contract for the completion of the project by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney

04/09/02 / E&T / D Milam
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-162

A RESOLUTION APPROVING AN APPROPRIATION TRANSFER OF $823,896 TO FULLY FUND THE 2002 SANITARY SEWER REPLACEMENT PROJECT

WHEREAS, many sanitary sewer pipelines have been cracked, displaced, and infiltrated by tree roots, and
WHEREAS, the list of pipelines requiring major maintenance for the 2002 Sanitary Sewer Replacement project exceeded the budgeted amount, and
WHEREAS, to repair and replace the additional pipelines requires a transfer of funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following appropriation transfer is approved:

FROM:
6210-480-5224-0235; $415,143
6210-480-5225-0235; $334,163
6210-480-M251; $74,590
$823,896

TO:
6210-480-N028-6040; $698,217
6210-480-N028-6050; $69,822
6210-480-N028-6060; $55,857
$823,896

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: [Signature]
JEAN ZAHR, City Clerk

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

04/09/02 / E&T / D Milam

2002-162
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-163

A RESOLUTION ACCEPTING $150,000 IN GRANT FUNDING FROM THE FEDERAL ECONOMIC DEVELOPMENT INITIATIVE GRANT FUND FOR CURB, GUTTER AND SIDEWALK IMPROVEMENTS IN THE CONANT/RUMBLE NEIGHBORHOOD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED DOCUMENTS

WHEREAS, Congress has approved funding from the Economic Development Initiative (EDI) account for the City of Modesto, pursuant to the VA-HUD-Independent Agencies Appropriations Action of 2002, and

WHEREAS, specifically, the congressional conference report on this matter specifies that the City of Modesto may receive $150,000 for infrastructure needs in distressed neighborhoods, and

WHEREAS, staff developed priorities to use when considering areas for funding, which include the ability to leverage other funds for the improvements, future plans to devote Community Development Block Grant and other resources to a geographical area and those areas where an urgent need exists, especially where there are safety issues, and

WHEREAS, staff identified the Conant/Rumble area around Chrysler has best met the priorities, and

WHEREAS, the Citizens Housing and Community Development Committee met on February 22, 2002, and supported staff’s recommendation to use the Economic Development Initiative Grant funds for curb, gutter and sidewalk improvements in the Conant/Rumble area,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts $150,000 in funding under the Federal Economic Development Initiative Grant Fund for curb, gutter and sidewalk improvements in the Conant/Rumble area.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager or designee to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-164

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 CAPITAL IMPROVEMENT PLAN BUDGET TO ESTIMATE $150,000 IN REVENUE FROM THE FEDERAL ECONOMIC DEVELOPMENT INITIATIVE AND TO APPROPRIATE $150,000 TO A NEW PROJECT IN THE CAPITAL GRANTS FUND 2300, EDI CURB, GUTTERS AND SIDEWALKS

WHEREAS, the City was awarded a grant of $150,000 from the Federal Economic Development Initiative grant fund for infrastructure needs in distressed neighborhoods, and

WHEREAS, staff developed priorities to use when considering areas for funding, and identified the Conant/Rumble area around Chrysler has best meeting the priorities, and

WHEREAS, a new project needs to be established in the Capital Improvement Plan Grants Fund 2300, titled “EDI Curb, Gutters and Sidewalks”, and

WHEREAS, the Citizens Housing and Community Development Committee met on February 22, 2002, and supported staff’s recommendation to use the Economic Development Initiative Grant funds for curb, gutter and sidewalk improvements in the Conant/Rumble area,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2001-02 Capital Improvement Plan budget to estimate $150,000 in revenue from the Federal Economic Development Initiative and to appropriate $150,000 to a new project in the Capital Grants Fund 2300, “EDI Curb, Gutters and Sidewalks”.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

Attest: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-165

A RESOLUTION APPROVING ALLOCATION OF $377,250 IN FISCAL YEAR 2002-2003 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING AND $88,000 IN FISCAL YEAR 2002-2003 EMERGENCY SHELTER GRANT FUNDING

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 an Emergency Shelter Grant (ESG), and
WHEREAS, the City receives these grants 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 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 2002-2003, fifteen percent of the City’s available CDBG entitlement is $377,250, which is the amount recommended for allocation, and
WHEREAS, in 2000, the City Council recommended that the Modesto Police Department be allocated public service funding for the Crime Free Multi-Housing Project be funded through CDBG Public Service funds for three years at $150,000 per year, and
WHEREAS, staff has reduced the amount of CDBG funding available to non-profits by $150,000 in order to fund the third year of the Crime Free Multi-Housing Program, and
WHEREAS, the City allocates one hundred percent of its annual ESG to local non-profit organizations for the purposes of providing assistance that is consistent with the functions of ESG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and
WHEREAS, in Fiscal Year 2002-2003, the City’s ESG grant is $88,000, which is the amount recommended for allocation, and
WHEREAS, local non-profit organizations were invited to submit Requests for Proposals (RFPs) for the balance of available CDBG Public Service funds in the amount of $227,250 and for $88,000 in ESG funds, and

WHEREAS, at a public meeting on March 28, 2002, the Citizens Housing and Community Development Committee recommended funding as set forth in Exhibits “A” and “B” attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of $227,250 in Fiscal Year 2002-2003 Community Development Block Grant funding and $88,000 in Emergency Shelter Grant funding as set forth in Exhibits “A” and “B” attached hereto and incorporated by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of $150,000 to the Modesto Police Department for the Crime Free Multi-Housing 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 allocation of Fiscal Year 2002-2003 CDBG/ESG Public Service Grant funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Sabatino

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
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<tr>
<th>Agency</th>
<th>Program Name</th>
<th>Attended</th>
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<td>Community Education Program</td>
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<td>Central Valley Opportunity Center</td>
<td>Community Service Access Assistance</td>
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<td>The Salvation Army</td>
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A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN STANISLAUS COUNTY AND THE CITY OF MODESTO TO TRANSFER ADMINISTRATIVE RESPONSIBILITY FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' "METROPOLITAN MEDICAL RESPONSE SYSTEM" PROGRAM TO THE STANISLAUS COUNTY PUBLIC HEALTH DEPARTMENT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MOU.

WHEREAS, the U.S. Department of Health and Human Services has offered the City of Modesto a Request for Proposal (RFP) to participate in the Metropolitan Medical Response System (MMRS) Program, and

WHEREAS, the Metropolitan Medical Response System requires the program administrator to develop eleven "deliverables" specific to management of health consequences of the release of a biological weapon of mass destruction, and

WHEREAS, the Metropolitan Medical Response System program administrator is also required to develop "Pharmaceutical and Equipment" Plans to provide care for at least 1,000 victims, for a chemical incident, and for the affected population for the first 24 hours of response to a biological incident, and

WHEREAS, the City of Modesto Emergency Operations Plan designates the Stanislaus County Public Health Official with responsibilities for public health issues within the City of Modesto, and

WHEREAS, the Stanislaus Public Health Officer has requested to be named as the Metropolitan Medical Response System (MMRS) Program administrator, and

WHEREAS, the citizens of the City of Modesto and Stanislaus County will benefit from the Metropolitan Medical Response System (MMRS) should a chemical release or biological incident occur, and

WHEREAS, they City is desirous of entering into an M.O.U. with the Stanislaus County Health Services' Agency to transfer administrative responsibility for the Department of Health and Human Services' "Metropolitan Medical Response System" to the Stanislaus County Public Health Department, and
WHEREAS, the Public Safety Committee met on December 6, 2001, and supported Stanislaus County Public Health Services’ request to become the administrator of the Metropolitan Medical Response System” to become the administrator of the Metropolitan Medical Response System Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Memorandum of Understanding between the City of Modesto and the Stanislaus County Department of Health and Human Services is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Memorandum of Understanding.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby directed to transmit a letter to the Department of Health and Human Services’ Metropolitan Medical Response System (MMRS) Program Contracting Officer transferring administrative responsibilities to the Stanislaus Public Health Officer.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Council member Frohman, who moved the 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: ____________________________________________

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

Michael D. Milich, City Attorney
A RESOLUTION APPROVING AN APPLICATION TO OPERATE TAXICABS AND GRANT THE REQUEST OF MR. RASUL GHULUM, ET AL., FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FIVE (5) TAXICABS IN THE CITY OF MODESTO DOING BUSINESS AS “EXPRESS CAB COMPANY”

WHEREAS, Mr. Ghulum, et al., proposing to do business as “Express Cab Company”, filed an application, dated August 21, 2001, for Certificates of Public Convenience and Necessity to operate five (5) taxicabs in the City of Modesto, and

WHEREAS, Section 4-6.205 of the Modesto Municipal Code requires City staff to investigate such applications and to report said investigations in writing to the City Council including specific areas of investigation, findings, and comments for Council consideration, and

WHEREAS, after an investigation by City staff and by report dated January 22, 2002, the Engineering and Transportation Department staff recommended to the Council approval of five (5) taxis doing business as “Express Cab Company,” and

WHEREAS, on January 17, 2002, the Transportation Policy Committee reviewed the application of Express Cab Company and

WHEREAS, a public hearing was set for February 12, 2002, at 5:15 p.m. in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, for the purpose of considering said application and investigations and reports, and

WHEREAS, said duly noticed public hearing was held, at which time evidence both oral and documentary was received and considered by the Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that based on the investigation and report of City staff, the Council hereby finds and declares as follows:

1. To enhance the quality of local taxicab service the Council declares that the public convenience and necessity requires the operation of additional proposed taxicab service.
2. The name, “Express Cab Company” is acceptable. The color scheme of the proposed taxi operation will be vehicles with a green body and yellow hood and trunk.

3. That Mr. Ghulum, et al., be granted Certificates of Public Convenience and Necessity to operate five (5) taxicabs in the City of Modesto doing business as “Express Cab Company” in the City of Modesto.

4. That the Engineering and Transportation Department Director shall not issue any of the certificates authorized hereby until Mr. Ghulum, et al., shall have complied with all of the requirements of Chapter 6 of Title 4 of the Modesto Municipal Code before the commencement of operation of the proposed service.

The following resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: Jean Zahr, City Clerk

(Approved as to form)

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-168

A RESOLUTION APPROVING ALLOCATION OF HOME FUNDS TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY AND STANCO FOR AFFORDABLE HOUSING PROJECTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED DOCUMENTS

WHEREAS, on November 20, 2001, a Request for Proposals was advertised and distributed to past applicants and interested parties, and

WHEREAS, the City has received three proposals for financial assistance in connection with affordable housing proposals, and

WHEREAS, a review committee comprised of staff and members of the Citizens Housing and Community Development Committee have recommended funding for two of the applicants, the Housing Authority of Stanislaus County for the Miller Pointe Project and STANCO for the 3333 Carver Road project, and

WHEREAS, there is a total of $610,000 in HOME funds available for allocating, $175,000 of which is set aside for Community Housing Development Organizations (CHDO's), and

WHEREAS, an additional $602,149 is available from carryover to re-allocate and to fund the total amount requested in the proposals recommended for funding, which will be estimated and appropriated by separate Council action, and

WHEREAS, said HOME program funds must be committed, and binding agreements executed thereon between the City and developers by June 30, 2002, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on February 22, 2002 and recommended that the City Council allocate HOME funds as recommended by City staff, and

WHEREAS, a copy of the staff recommendations, is attached hereto as Exhibit "A", and incorporated herein by reference, and

WHEREAS, approval of these recommended allocations furthers the City’s goal to provide affordable housing to its citizens and is consistent with the authorized use of HOME funds,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an allocation of $1,082,000 in HOME funds for affordable housing projects to include $250,000 in HOME funds for Miller Pointe and $657,000 in HOME and $175,000 in CHDO funds for 3333 Carver Road, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to negotiate any and all documents that may be required in relation to the approval of the allocation of said HOME funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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, Frohman, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Mayor Sabatino

Attest: ____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ______________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-169

A RESOLUTION AMENDING THE FISCAL YEAR 01-02 OPERATING BUDGET TO ESTIMATE $612,149 IN AVAILABLE HOME CARRYOVER REVENUE (1170-320-3258-3517R) AND TO APPROPRIATE $602,149 TO 1170-320-3258-0497, DIRECT LOANS, AND TO APPROPRIATE $10,000 TO 1170-320-3258-0491, TEMPORARY RELOCATIONS.

WHEREAS, the Fiscal Year 01-02 Operating Budget has an estimated $612,149 in available HOME carryover revenue, and

WHEREAS, staff is recommending that $602,149 of the available carryover be appropriated to 1170-320-3258-0497, Direct Loans, and $10,000 be appropriated to 1170-320-3258-491, Temporary Relocations, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on February 22, 2002 and supported staff’s recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 01-02 operating budget to estimate $612,149 in available HOME carryover revenue (1170-320-3258-3517R) and to appropriate $602,149 to 1170-320-3258-0497, Direct Loans, and to appropriate $10,000 to 1170-320-3258-0491, Temporary Relocations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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, Frohman, Jackman, Keating, O’Bryant

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Mayor Sabatino

Attest: Rebecca Bartholomew
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-170

A RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUESTS FOR PROPOSALS FOR A FIVE-YEAR STRATEGIC PLAN AND RATE STUDY FOR THE MODESTO CENTRE PLAZA, IN AN AMOUNT NOT TO EXCEED $20,000

WHEREAS, staff desires to develop a Request for Proposals for preparation of a Five-Year Strategic Plan and Rate Study for the Modesto Centre Plaza, and

WHEREAS, the current plan will expire next fiscal year, and a new plan is needed, and

WHEREAS, funds in the amount of $35,000 are available in the Fiscal Year Capital Improvement Plan budget, 671-340-K115, Centre Plaza Business Plan, which, by separate action will be transferred into the Centre Plaza operating budget to fund the Five-Year Strategic Plan and Rate Study, and

WHEREAS, the Human Services Committee met on March 4, 2002, and supported staff’s recommendation to solicit Requests for Proposals for preparation of a Five-Year Strategic Plan and Rate Study for the Modesto Centre Plaza,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to solicit Requests for Proposals in an amount not to exceed $20,000 for preparation of a Five-Year Strategic Plan and Rate Study for the Modesto Centre Plaza. Staff is directed to submit the responsive proposals to the Human Services Committee for its review before submitting a contract for Council approval.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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

NOES:  Councilmembers: Keating, O’Bryant

ABSENT: Councilmembers: Mayor Sabatino

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-171

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO CLOSE OUT CAPITAL IMPROVEMENT PLAN PROJECT 671-340-K115, CENTRE PLAZA BUSINESS PLAN, TO TRANSFER $20,000 FROM SAID CIP TO 6700-340-3412-0235, PROFESSIONAL SERVICES, TO TRANSFER $30,000 FROM SAID CIP PROJECT TO 6700-800-8000-8003, MODESTO CENTRE PLAZA RESERVE, AND TO TRANSFER $50,000 FROM SAID CIP PROJECT TO 0100-800-8000-8003, GENERAL FUND RESERVE.

WHEREAS, staff desires to develop a Request for Proposals for preparation of a Five-Year Strategic Plan and Rate Study for the Modesto Centre Plaza, and

WHEREAS, $100,000 is available in Capital Improvement Project 671-340-K115, Centre Plaza Business Plan, for the purposes of an expansion study, and

WHEREAS, the original funding sources were $50,000 from the Centre Plaza Reserve and $50,000 from the General Fund Reserve, and

WHEREAS, staff is recommending that said CIP project be closed out, and the expansion study be delayed, and

WHEREAS, $20,000 is needed to fund the Five-Year Strategic Plan and Rate Study for the Modesto Centre Plaza, and

WHEREAS, staff is recommending that the CIP project funding of $50,000 from the General Fund be returned to the General Fund Reserve, and

WHEREAS, staff is recommending that the balance of the CIP project funding of $20,000 be returned to the Centre Plaza Reserve, and

WHEREAS, the Human Services Committee met on March 4, 2002, and supported staff’s recommendation to conduct Five-Year Strategic Plan and Rate Study for the Modesto Centre Plaza, and to amend the budget to fund said Plan,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Improvement Program is hereby amended to close out Capital Improvement Plan project 671-340-K115, Centre Plaza Business Plan, to transfer $20,000 from said CIP project to 6700-340-3412-0235, Professional Services, to transfer $30,000 from said CIP project to 6700-800-8000-8003, Modesto Centre Plaza Reserve, and to transfer $50,000 from said CIP project to 0100-800-8000-8003, General Fund Reserve.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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
NOES: Councilmembers: Keating, O’Bryant
ABSENT: Councilmembers: Mayor Sabatino

Attest: \[Signature\]
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: \[Signature\]
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-172

A RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUESTS FOR QUALIFICATIONS FOR DEVELOPMENT OF MULTI-FAMILY HOUSING FOR WORKING CITIZENS IN VILLAGE ONE

WHEREAS, staff has developed a Request for Qualifications for the development of multi-family housing for working citizens in Village One, and

WHEREAS, funds in the amount of $245,000 are available in the Fiscal Year operating budget, 1170-320-3258-0497, Direct Loans, and

WHEREAS, the Citizens Housing and Community Development Committee met on January 18, 2002, and supported staff’s recommendation to solicit Requests for Qualifications for development of multi-family housing for working citizens in Village One,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to solicit Requests for Qualifications for development of multi-family housing for working citizens in Village One.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

Attest: ____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ______________________________
MICHAEL D. MILICH, City Attorney
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMAL SOLICIT BIDS FOR THE ADA CURB CUTS PROGRAM FOR 2001-02

WHEREAS, the City of Modesto has deemed it desirable to complete the Americans with Disabilities Act (ADA) Curb Cuts Program for 2001-02, and
WHEREAS, the estimated cost for the curb cuts program is $290,000, and
WHEREAS, the Parks, Recreation and Neighborhoods Department and the Engineering and Transportation Department have assisted in writing the bid specifications and fully support solicitation of bids, and
WHEREAS, the Purchasing Supervisor will formally solicit bids for the ADA Curb Cuts Program, and
WHEREAS, the Citizens Housing and Community Development Committee met on January 18, 2002, and supported soliciting bids for the ADA Curb Cuts Program,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the solicitation of bids for the ADA Curb Cuts Program for 2001-02 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Jackman, 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
NOES: Councilmembers: None
ABSENT: Councilmembers: Mayor Sabatino

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-174

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO TRANSFER $80,000 IN FUNDING FROM 1130-320-3254-0496, DIRECT LOANS, $50,000 FROM 1130-320-3262-5900 AND $50,000 FROM PROJECT 1130-310-M164, CDBG LOW INCOME IMPROVEMENTS TO 2300-310-N444, CDBG LOW INCOME IMPROVEMENTS TO FULLY FUND THE ADA CURB CUTS PROGRAM FOR 2001-02.

WHEREAS, staff desires to solicit bids for the Americans with Disabilities Act (ADA) Curb Cuts Program in the amount of $290,000, and

WHEREAS, $110,000 is currently available in Capital Improvement Plan project 2300-310-N444, CDBG Low Income Improvements, and

WHEREAS, $50,000 is currently available in 1130-320-3262-5900, CDBG CIP, Non-Capital Other, and

WHEREAS, $50,000 is currently available in Capital Improvement Plan project 1130-310-M164, and

WHEREAS, $80,000 is currently available in operating account, 1130-320-3254-0497, CDBG Public Service Direct Loans, and

WHEREAS, the Citizens Housing and Community Development Committee met on January 18, 2002, and supported an additional $80,000 to add or renovate curb cuts,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2001-02 operating and Capital Improvement budgets to transfer $80,000 in funding from 1130-320-3254-0496, Direct Loans, $50,000 from 1130-320-3262-5900, CDBG CIP, Non-Capital Other, and $50,000 from project 1130-310-M164, CDBG Low Income Improvements to 2300-310-N444, CDBG Low Income Improvements to fully fund the ADA Curb Cuts Program for 2001-02.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, by Councilmember Jackman, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

Attest: ________________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-175

A RESOLUTION ACCEPTING THE PURCHASE AGREEMENT IN THE AMOUNT OF $5,000 FROM DAVID BARNES FOR THE SALE OF THE PROPERTY LOCATED AT LEON AVENUE AND PARADISE AVENUE (APN: 102-0239) WITHIN THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL REQUIRED DOCUMENTS TO COMPLETE SAID SALE ON BEHALF OF THE CITY OF MODESTO

WHEREAS, the City Council has determined that the parcel of land owned by the City of Modesto and located at Leon Avenue and Paradise Avenue within the City of Modesto (Assessors Parcel Number 102-0239) is excess to City’s needs, and

WHEREAS, said parcel is a remnant of a larger subdivision lot which is more particularly described in a Right of Way Acquisition drawing (“Exhibit A”) which is attached hereto and made a part hereof by this reference, and

WHEREAS, in March 2001, the Council directed staff to offer this parcel for sale and in accordance with Government Code §54222, staff offered the property to specified public agencies who expressed no interest in acquiring said parcel, and

WHEREAS, the City contracted with PMZ Real Estate to offer the property on the open market which action has resulted in an offer in the amount of Five Thousand Dollars and No Cents ($5,000.00) from David Barnes. Said Purchase Agreement (“Exhibit B”) is attached hereto and made a part hereof by this reference, and

WHEREAS, City has determined that said offer is reasonable.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that said Purchase Agreement and offer from David Barnes is hereby accepted for the sale of Assessors Parcel Number 102-0239.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to execute the grant deed and any property-related documents in order to sell said property on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of April, 2002, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Sabatino

ATTEST: [Signature]
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-176

A RESOLUTION INCREASING THE ENGINEERING AND TRANSPORTATION DIRECTOR’S AUTHORITY LEVEL TO ISSUE CHANGE ORDERS FROM 10% TO 33% OF THE ORIGINAL CONTRACT PRICE WITH GOLDEN STATE UTILITY COMPANY ON THE “EXPAND ATMS NORTHEAST” PROJECT

WHEREAS, on November 20, 2001, the City Council awarded a $438,428.00 contract to Golden State Utility Company to install conduit and fiber optic cable on Coffee Road from Sylvan Avenue to Scenic Drive and down Scenic Drive, “H” Street and 11th Street to Tenth Street Place, and

WHEREAS, the contractor started work on February 25, 2002, and

WHEREAS, the City needs to have the contractor perform additional work in excess of the authority given to the Director of Engineering and Transportation on a project this size by the Council’s change order policy adopted by Resolution No. 94-443, and

WHEREAS, Council appropriated $100,000.00 by Resolution No. 2002-128 to fund increase, and

WHEREAS, the estimated cost associated with the extra work is $100,000, increasing the estimated contract amount to $538,428.00, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of 10% of the original contract price, or $43,842.80 in this case,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Engineering and Transportation Director’s authority level to issue change orders, from 10% to 33% of the original contract price with Golden State Utility Company, for the project entitled “Expand ATMS Northeast.”
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002, by Councilmember Frolunan, 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
## STANDARD COMMERCIAL/INVESTMENT PURCHASE AGREEMENT

(Non-Residential or More Than Four Residential Units)

### DEFINITIONS

**BROKER** includes cooperating brokers and all sales persons. **DAYS** means calendar days, midnight to midnight, unless otherwise specified. **BUSINESS DAY** excludes Saturdays, Sundays and legal holidays. **DATE OF ACCEPTANCE** means the date Seller accepts the offer or the Buyer accepts the counter offer. **DELIVERED** means personally delivered, transmitted by facsimile machine, by a nationally recognized overnight courier, or by deposit in the U.S. Mail, postage prepaid. In the event of mailing, the document will be deemed delivered three (3) business days after deposit; in the event of overnight courier, one (1) business day after deposit; and if by facsimile, at time of transmission provided that a transmission report is generated and retained by the sender reflecting the accurate transmission of the document. Unless otherwise provided in this Agreement or by law, delivery to the agent will constitute delivery to the principal. **DATE OF CLOSING** means the date title is transferred. **TERMINATING THE AGREEMENT** means that both parties are relieved of their obligations and all deposits will be returned to Buyer less expenses incurred by or on account of Buyer to date of termination. **PROPERTY** means the real property and any personal property included in the sale.

### AGENCY RELATIONSHIP CONFIRMATION

The following agency relationship is hereby confirmed for this transaction and supersedes any prior agency election:

- **LISTING AGENT:** PMZ Commercial Real Estate
- **SELLING AGENT:**

  - (Print Firm Name)
  - [ ] the Seller exclusively; or [x] both the Buyer and the Seller.

  - (Print Firm Name)
  - [ ] the Buyer exclusively; or [x] both the Buyer and the Seller.

**Note:** This confirmation **DOES NOT** take the place of the AGENCY DISCLOSURE form (P.P. Form 110.42 CAL) required by law. Hereafter designated as **BUYER**, offers to purchase the real property situated in Modesto, County of Stanislaus, California, commonly known as APN: 102-02-39, SWC Leorn and Paradise Road. FOR THE PURCHASE PRICE OF $5,000.00 (Five Thousand dollars) on the following terms and conditions:

### 1. FINANCING TERMS AND LOAN PROVISIONS.

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<tbody>
<tr>
<td>A.</td>
<td>$1,000.00 DEPOSIT evidenced by [x] check, or [ ] other: head uncashed until acceptance and not later than three (3) business days thereafter deposited toward the purchase price with: Fidelity Title</td>
</tr>
<tr>
<td>B.</td>
<td>$ ADDITIONAL CASH DEPOSIT to be placed in escrow [ ] within [ ] days after acceptance, [ ] upon receipt of Loan Commitment per Item 2. [ ] Other:</td>
</tr>
<tr>
<td>C.</td>
<td>$4,000.00 BALANCE OF CASH PAYMENT needed to close, not including closing costs.</td>
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<td>D.</td>
<td>$ NEW FIRST LOAN: [ ] FIXED RATE: For [ ] years, interest not to exceed [ ] %, payable at approximately $ per month (principal and interest only), with the balance due in not less than [ ] years. [ ] ARM: For [ ] years, initial interest rate not to exceed [ ] %, with initial monthly payments of $ and maximum lifetime rate not to exceed [ ] %</td>
</tr>
<tr>
<td>E.</td>
<td>$ EXISTING FINANCING: [ ] FIRST LOAN, [ ] SECOND LOAN: [ ] ASSUMPTION OF, [ ] SUBJECT TO existing loan of record described as follows:</td>
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<tr>
<td>F.</td>
<td>$ SELLER FINANCING: [ ] FIRST LOAN, [ ] SECOND LOAN, [ ] THIRD LOAN, secured by the property.</td>
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<td>G.</td>
<td>$ OTHER FINANCING TERMS:</td>
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<tr>
<td>H.</td>
<td>$ [ ] TOTAL PURCHASE PRICE (not including closing costs).</td>
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### 2. LOAN APPROVAL

(Please check off the following):

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<tr>
<td>A.</td>
<td>[ ] CONTRACT IS NOT CONTINGENT upon Buyer obtaining a loan.</td>
</tr>
<tr>
<td>B.</td>
<td>[ ] CONTRACT IS CONTINGENT upon Buyer's ability to obtain a commitment for new financing, as set forth above, from a lender or mortgage broker of Buyer's choice, and/or consent to assumption of existing financing provided for in this Agreement, within [ ] days after acceptance. Buyer will be in good faith use his or her best efforts to qualify for and obtain the financing and will complete and submit a loan application within five (5) days after acceptance. Buyer [ ] will, [ ] will not provide a [ ] prequalification letter or [ ] preapproval</td>
</tr>
</tbody>
</table>

Buyer [ ] [_____] and Seller [ ] [_____] have read this page. CAUTION: The copyright laws of the United States forbid the unauthorized reproduction of this form by any means including scanning or computerized formats.

Page 1 of 5

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Printed On: Thursday, April 04, 2002 10:18:14
Property Address

APN: 102-02-39, SWC Lean and Paradise Road

letter from lender or mortgage broker based on Buyer's application and credit report within ___ days after acceptance. In the event a loan commitment or consent is obtained but not timely honored without fault of Buyer, Buyer may terminate this Agreement.

3. BONDS AND ASSESSMENTS. All bonds and assessments which are part of or paid with the property tax bill will be assumed by the Buyer. In the event there are other bonds or assessments which have an outstanding principal balance and are a lien upon the property, the current installment will be prorated between Buyer and Seller as of the date of closing. Future installments will be assumed by Buyer WITHOUT CREDIT toward the purchase price, EXCEPT AS FOLLOWS: No exception

This Agreement is conditioned upon both parties verifying and approving in writing the amount of any bond or assessment to be assumed or paid within ten (10) days after receipt of the preliminary title report or property tax bill whichever is later. In the event of disapproval, the disapproving party may terminate this Agreement.

4. PROPERTY TAX. Within Three (3) days after acceptance, Seller will deliver to Buyer for his or her approval a copy of the latest property tax bill. Buyer is advised that (a) the property will be reassessed upon change of ownership which may result in a tax increase; and (b) the tax bill may not include certain exempt items such as school taxes on property owned by seniors. Buyer should make further inquiry at the assessor's office. Within five (5) days after receipt of the tax bill, Buyer will in writing approve or disapprove the tax bill. In the event of disapproval, Buyer may terminate this agreement.

5. EXISTING LOANS. Seller will, within three (3) days after acceptance, provide Buyer with copies of all notes and deeds of trust to be assumed or taken subject to. Within five (5) days after receipt Buyer will notify Seller in writing of his or her approval or disapproval of the terms of the documents. Approval will not be unreasonably withheld. Within three (3) days after acceptance, Seller will submit a written request for a current Statement of Condition on the above loan(s). Seller warrants that all loans will be current at close of escrow. Seller will pay any prepayment charge imposed on any existing loan paid off at close of escrow. Buyer will pay the prepayment charge on any loan which is to remain a lien upon the property after close of escrow. The parties are encouraged to consult his or her lender regarding prepayment provisions and any due on sale clauses.

6. DESTRUCTION OF IMPROVEMENTS. If the improvements of the property are destroyed, materially damaged, or found to be materially defective as a result of such damage prior to close of escrow, Buyer may terminate this Agreement by written notice delivered to Seller or his or her Broker, and all unused deposits will be returned. In the event Buyer does not elect to terminate this Agreement, Buyer will be entitled to receive, in addition to the property, any insurance proceeds payable on account of the damage or destruction.

7. EXAMINATION OF TITLE. In addition to any encumbrances assumed or taken "subject to," Seller will convey title to the property subject only to: (1) real estate taxes not yet due; and (2) covenants, conditions, restrictions, rights of way and easements of record, if any, which do not materially affect the value or intended use of the property. Within ten (10) days after acceptance, Buyer will order a Preliminary Title Report and copies of CCRs and other documents of record if applicable. Within five (5) days after receipt, Buyer will report to Seller in writing any valid objections to title contained in such report (other than monetary liens to be paid upon close of escrow). If Buyer objects to any exceptions to the title, Seller will use due diligence to remove such exceptions at his or her own expense before close of escrow. If such exceptions cannot be removed before close of escrow, this Agreement will terminate, unless Buyer elects to purchase the property subject to such exceptions. If Seller concludes he or she is in good faith unable to remove such objections, Seller will so notify Buyer within ten (10) days after receipt of said objections. In that event Buyer may terminate this Agreement.

8. EVIDENCE OF TITLE will be in the form of a title insurance, issued by Title company

paid by [ ] Buyer, [x] Seller, [ ] Other

NOTE: Buyer should discuss the type of policy with the title company and their choice at time escrow is opened. In the event a written request for an ALTA lender's policy of title insurance, [ ] Buyer, [x] Seller will pay the premium.

9. PRORATIONS. Rents, real estate taxes, interest, payments on bonds and assessments assumed by Buyer, and homeowners association fees will be prorated as of the date of recordation of the deed. Security deposits, advance rentals, or considerations involving future lease credits will be credited to Buyer.

10. CLOSING. Full purchase price to be paid and deed to be recorded [ ] on or before ___ [ ] or ___ within ___ days after acceptance. Both parties will deposit with an authorized escrow holder, to be selected by Buyer, all funds and instruments necessary to complete the sale in accordance with the terms of this Agreement. Where customary, signed escrow instructions will be delivered to escrow holder within ___ days after acceptance. Escrow fee to be paid by 1/2 Buyer 1/2 Seller [ ] County/City transfer taxes (if any, to be paid by [ ] Buyer, [x] Seller

THIS PURCHASE AGREEMENT TOGETHER WITH ANY ADDENDA WILL CONSTITUTE JOINT ESCROW INSTRUCTIONS TO THE ESCROW HOLDER.

11. PHYSICAL POSSESSION. Physical possession of the property, with keys to all property locks, alarms, and garage door openers, will be delivered to Buyer (check one):
[ ] On the date of recordation of the deed, not later than ___ [a.m., p.m.];
[ ] On the ___ day after recordation, not later than ___ [a.m., p.m.]

12. FIXTURES. All items permanently attached to the property, including light fixtures and bulbs, attached floor coverings, all attached window coverings, including window hardware, window and door screens, storm sash, combination doors, awnings, TV antennas, burglar, fire, smoke and security alarms (unless leased), pool and spa equipment, solar systems, attached fireplace screens, electric garage door openers with controls, outdoor plants and trees (other than in movable containers), are included in the purchase price free of liens, EXCLUDING: None

Buyer [ ] [ ] and Seller [ ] [ ] have read this page.

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13. NOTICE OF VIOLATIONS. By acceptance, Seller warrants that he or she has no written notice of violations relating to the property from City, County, State, Federal or any other governmental agencies.

14. INCOME AND EXPENSE STATEMENT. Within seven (7) days of acceptance, Seller will deliver to Buyer, for his or her approval, a true and complete statement of rental income and expenses. Within seven (7) days of receipt of that statement, Buyer will notify Seller in writing of his or her approval or disapproval. In case of disapproval, Buyer may terminate this Agreement.

15. SERVICE CONTRACTS. Within seven (7) days of acceptance, Seller will furnish Buyer, for his or her approval copies of any service and/or equipment rental contracts with respect to the property which run beyond close of escrow. Within seven (7) days of receipt of the copies, Buyer will notify Seller in writing of his or her approval or disapproval. In case of disapproval, Buyer may terminate this Agreement.

16. EXISTING LEASES. This Agreement is subject to existing leases, and rental agreements. Within seven (7) days of acceptance, Seller will deliver to Buyer, for his or her approval, true copies of all existing leases and rental agreements, copies of all outstanding notices sent to tenants, and a written statement of any oral agreements with tenants. Seller will also deliver to Buyer, within seven (7) days of acceptance, a statement of any uncured defaults, claims made by or to tenants, and a statement of all tenants’ deposits held by Seller. Seller warrants all information to be true and complete. Buyer's obligations are conditioned upon approval of existing leases and rental agreements. Within seven (7) days of receipt of the documents, Buyer will notify Seller in writing of his or her approval or disapproval. In case of disapproval, Buyer may terminate this Agreement. Buyer's obligations under this Agreement are further conditioned upon receipt on or before date of closing of Estoppel Certificates executed by each tenant acknowledging that a lease or rental agreement is in effect, that no lessor default exists, and stating the amount of any prepaid rent or security deposit.

17. CHANGES DURING TRANSACTION. During the pendency of this transaction, Seller agrees that no changes in the existing leases or rental agreements will be made, nor new leases or rental agreements entered into, nor will any substantial alterations or repairs be made or undertaken to the property without the written consent of the Buyer.

18. MAINTENANCE. Seller will maintain the property until the closing in its present condition, ordinary wear and tear excepted. The heating, ventilating, air conditioning, plumbing, elevators, loading doors, and electrical systems will be in good operating order and condition as of the time of closing.

19. ACCESS TO PROPERTY. Seller agrees to provide reasonable access to the property to Buyer and inspectors, appraisers, and all other professionals representing Buyer.

20. WALK-THROUGH INSPECTION. Buyer will have the right to conduct a walk-through inspection of the property within ___ days prior to close of escrow, to verify Seller's compliance with the provisions under Item 12, FIXTURES, and Item 18, MAINTENANCE. This right is not a condition of this Agreement, and Buyer's sole remedy for an alleged breach of these items is a claim for damages. Utilities are to remain turned on until transfer of possession.

21. COMPLIANCE WITH LOCAL LAWS. Seller will comply with any local laws applicable to the sale or transfer of the property, including but not limited to: Providing inspections and/or reports for compliance with local building and permit regulations, including septic system inspection reports; compliance with minimum energy conservation standards; and compliance with water conservation measures. All required inspections and reports will be ordered within three (3) days after acceptance and will be paid for by Seller. If Seller does not agree within five (5) days after receipt of a report to pay the cost of any repair or improvement required to comply with such laws, Buyer may terminate this Agreement. It is understood that if Seller has given notice that necessary permits or final approvals were not obtained for some improvements, Seller will not be responsible for bringing the improvements into compliance unless otherwise agreed.

22. OPTIONAL PROVISIONS. The provisions in this Item 22, if INITIALED BY BUYER, are included in this Agreement.

22-A. [ ] INSPECTIONS OF PHYSICAL CONDITION OF PROPERTY. Buyer will have the right to retain, at his or her expense, licensed experts including but not limited to engineers, geologists, architects, contractors, surveyors, arborists, and structural pest control operators to inspect the property for any structural and nonstructural conditions, including matters concerning roofing, electrical, plumbing, heating, cooling, appliances, well, septic system, pool, boundaries, geological and environmental hazards, toxic substances including asbestos, formaldehyde, radon gas, and lead-based paint. Buyer, if requested by Seller in writing, will promptly furnish, at no cost to Seller, copies of all written inspection reports obtained. Buyer will approve or disapprove in writing all inspection reports obtained within five (5) days after acceptance. In the event of Buyer's disapproval, Buyer may, within the time stated or mutually agreed upon extension, elect to terminate this Agreement, or invite Seller to negotiate repairs. (See P.P. Form 101-M, Addendum Regarding Removal of Inspection Contingencies.)

22-B. [ ] MAINTENANCE RESERVE. Seller agrees to leave in escrow a maintenance reserve in the amount of $.

If, in the reasonable opinion of a qualified technician, any of the equipment listed under Item 18, MAINTENANCE, is not in working order, Buyer will furnish Seller a copy of the technician's inspection report and submit written notice to Seller of non-compliance of any of the terms under Item 18, MAINTENANCE, within five (5) days after occupancy is delivered.

In the event Seller fails to make the repairs and/or corrections within five (5) days after receipt of said report or notice, Seller authorizes the escrow holder to disburse to Buyer against bills for such repairs or corrections the sum of such bills, not to exceed the amount reserved. Said reserve will be disbursed to Buyer or returned to Seller not later than fifteen (15) days after occupancy is delivered.

22-C. [ ] FLOOD HAZARD ZONE. Buyer has been advised that the property is located in a special flood hazard area designated by the Federal Emergency Management Agency (FEMA). It will be necessary to purchase flood insurance in order to obtain any loan secured by the property from any federally regulated financial institution or a loan insured or guaranteed by an agency of the U.S. Government. The purpose of the program is to provide flood insurance at reasonable cost. For further information contact your lender or insurance carrier.

Buyer [ ] and Seller [ ] have read this page.

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**EXHIBIT B**

Property Address

**22-D. [ ]** [ ] EARTHQUAKE FAULT OR SEISMIC HAZARD ZONE DISCLOSURES. The property is situated in a Earthquake Fault Zone or Seismic Hazard Zone as designated under §§ 2521-2525 and §§ 2590-2599.8 of the California Public Resources Code. Construction or development of any structure for human occupancy may be restricted. No request for the property under the terms of the above statutes. Within seven (7) days after acceptance, Buyer will notify Seller in writing of satisfaction or dissatisfaction of said inquiries. In case of dissatisfaction Buyer may terminate this Agreement.

**22-E. [ ] [ ] PROBATE/CONSERVATORSHIP SALE Pursuant to California Probate Code, this sale is subject to court approval at which time the court may allow open competitive bidding. An "AS IS" Addendum (P.P. Form 101-A-1) is attached and made a part of this Agreement.

**22-F. [ ] [ ] RENT CONTROL ORDINANCE. Buyer is aware that a local ordinance is in effect which regulates the rights and obligations of property owners. It may also affect the manner in which future rents can be adjusted.

**22-G. [ ] [ ] TAX DEFERRED EXCHANGE (INVESTMENT PROPERTY). In the event that Seller wishes to enter into a tax deferred exchange for the property, or Buyer wishes to enter into a tax deferred exchange with respect to property owned by him or her in connection with this transaction, each of the parties agrees to cooperate with the other party in connection with such exchange, including the execution of such documents as may be reasonably necessary to complete the exchange; provided that: (a) the other party will not be obligated to delay the closing; (b) all additional costs in connection with the exchange will be borne by the party requesting the exchange; (c) the other party will not be obligated to execute any note, contract, deed or other document providing for any personal liability which would survive the exchange; and (d) the other party will not take title to any property other than the property described in this Agreement. It is understood that a party's rights and obligations under this Agreement may be assigned to a third party intermediary to facilitate the exchange. The other party will be indemnified and held harmless against any liability which arises or is claimed to have arisen on account of the exchange.

**22-H. [ ] [ ] PERSONAL PROPERTY. The purchase price includes all furniture and furnishings and any other personal property owned by Seller and used in the operation of the property per attached signed inventory, receipt of which is hereby acknowledged. This inventory is incorporated by reference, the personal property will be transferred to Buyer by a Warranty Bill of Sale delivered at closing.

**23.** DEFAULT. In the event Buyer defaults in the performance of this Agreement (unless Buyer and Seller have agreed to liquidated damages), Seller may, subject to any rights of Broker, retain Buyer's deposit to the extent of damages sustained and may take such actions as he or she deems appropriate to collect such additional damages as may have been actually sustained. Buyer will have the right to take such action as he or she deems appropriate to recover such portion of the deposit as may be allowed by law. In the event that Buyer defaults (unless Buyer and Seller have agreed to liquidated damages) Buyer agrees to pay the Broker(s) any commission that would be payable by Seller in the absence of such default.

**24.** LIQUIDATED DAMAGES. By initialing in the spaces below,

<table>
<thead>
<tr>
<th>Buyer agrees</th>
<th>Seller agrees</th>
<th>Seller agrees</th>
</tr>
</thead>
</table>

Buyer agrees [ ] [ ] [ ] Buyer does not agree [ ] [ ] [ ] Seller does not agree [ ] [ ] [ ]

In the event Buyer defaults in the performance of this Agreement, Seller will retain as liquidated damages the deposit set forth in Items 1-A and 1-B, and that said liquidated damages are reasonable in view of all the circumstances existing on the date of this Agreement. In the event of additional deposit(s) required under Item 1-B, the parties will execute a similar liquidated damages provision as required by law. In the event that Buyer defaults and has not made the deposit required under Item 1-B or refuses to execute the liquidated damages provision with respect to such additional deposit, then Seller will have the option of retaining the full deposit or terminating the obligations of the parties under this Item 24 and recovering such damages from Buyer as may be allowed by law. Parties understand that in case of dispute mutual cancellation instructions are necessary to release funds from escrow or trust accounts.

**25.** MEDIATION OF DISPUTES. If a dispute arises out of or relates to this Agreement or its breach, by initialing in the "agree" spaces below the parties agree to first try in good faith to settle the dispute by voluntary mediation before resorting to court action or arbitration, unless the dispute is a matter excluded under Item 26 ARBITRATION.

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<th>Buyer agrees</th>
<th>Seller agrees</th>
<th>Seller agrees</th>
</tr>
</thead>
</table>

Buyer agrees [ ] [ ] [ ] Buyer does not agree [ ] [ ] [ ] Seller does not agree [ ] [ ] [ ]

**26.** ARBITRATION OF DISPUTES. Any dispute or claim in law or equity arising out of this Agreement will be decided by neutral binding arbitration in accordance with the California Arbitration Act (C.C.P. § 1280 et seq.), and not by court action except as provided by California law for judicial review of arbitration proceedings. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The parties will have the right to discovery in accordance with Code of Civil Procedure § 1283.05.

The parties agree that the following procedures will govern the making of the award by the arbitrator: (a) a Tentative Award will be made by the arbitrator within 30 days following submission of the matter to the arbitrator; (b) the Tentative Award will explain the factual and legal basis for the arbitrator's decision as to each of the principal controverted issues; (c) the Tentative Award will be in writing unless the parties agree otherwise; provided, however, that if the hearing is concluded within one (1) day, the Tentative Award may be made orally at the hearing in the presence of the parties. Within 15 days after the Tentative Award has been served or announced, any party may serve objections to the Tentative Award. Upon objections being timely served, the arbitrator may call for additional evidence, oral or written argument, or both. If no objections are filed, the Tentative Award will become final without further action by the parties or arbitrator. Within thirty (30) days after the filing of objections, Buyer [ ] [ ] and Seller [ ] [ ] have read this page.

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the arbitrator will either make the Tentative Award final or modify or correct the Tentative Award, which will then become final as modified or corrected.

The provisions of C.C.P. §128.5 authorizing the imposition of sanctions as a result of bad faith actions or tactics will apply to the arbitration proceedings. A prevailing party will also be entitled to an action for malicious prosecution if the elements of such cause of action are met.

The following matters are excluded from arbitration: (a) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or real property sales contract as defined in Civil Code § 2985; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic’s lien; (d) any matter which is within the jurisdiction of a probate court, or small claims court; or (e) an action for bodily injury or wrongful death, or for latent or patent defects to which Code of Civil Procedure § 337.1 or § 337.15 applies. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, will not constitute a waiver of the right to arbitrate under this provision.

NOTICE: By initialing in the ["agree"] space below you are agreeing to have any dispute arising out of the matters included in the “Arbitration of Disputes” provision decided by neutral arbitration as provided by California law and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. By initialing in the ["agree"] space below you are giving up your judicial rights to discovery and appeal, unless those rights are specifically included in the “Arbitration of Disputes” provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the California Code of Civil Procedure. Your agreement to this arbitration provision is voluntary.

We have read and understand the foregoing and agree to submit disputes arising out of the matters included in the “Arbitration of Disputes” provision to neutral arbitration.

[ ] Buyer agrees

[ ] Buyer does not agree

[ ] Seller agrees

[ ] Seller does not agree

27. ATTORNEY FEES. In any action or proceeding involving a dispute between Buyer and Seller arising out of the execution of this Agreement or the sale, whether for tort or for breach of contract, and whether or not brought to trial or final judgment, the prevailing party will be entitled to receive from the other party a reasonable attorney fee and expert witness fees to be determined by the court or arbitrator(s).

28. EXPIRATION OF OFFER. This Offer will expire unless acceptance is delivered to Buyer or to (Buyer’s Broker) on or before (date) _April 12, 2002_ (time) _5:00_ p.m.

29. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which is deemed to be an original.

30. CONDITIONS SATISFIED/WAIVED IN WRITING. Each condition or contingency, covenant, approval or disapproval will be satisfied according to its terms or waived by written notice delivered to the other party or his or her Broker.

31. TIME. Time is of the essence of this Agreement; provided, however, that if either party fails to comply with any contingency in this Agreement within the time limit specified, this Agreement will not terminate until the other party delivers written notice to the defaulting party requiring compliance within 24 hours after receipt of notice. If the party receiving the notice fails to comply within 24 hours, the non-defaulting party may terminate this Agreement without further notice.

32. SURVIVAL. The omission from escrow instructions of any provision in this Agreement will not waive the right of any party. All representations or warranties will survive the close of escrow.

33. ENTIRE AGREEMENT/ASSIGNMENT PROHIBITED. This document contains the entire agreement of the parties and supersedes all prior agreements or representations with respect to the property which are not expressly set forth. This Agreement may be modified only in writing signed and dated by both parties. Both parties agree that they have not relied on any statements of the real estate Agent or Broker which are not expressed in this Agreement. Buyer may not assign any right under this agreement without the prior written consent of Seller. Any such assignment will be void and unenforceable.

34. ADDENDA. The following addenda are attached and made a part of this Agreement:

[ ] Addendum No. 1

[ ] Addendum No. 2

35. ADDITIONAL TERMS AND CONDITIONS.

Buyers are purchasing property "as-is" and they are aware of all building set-back requirements.

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NOTICE: The California Department of Justice, sheriffs' departments, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The data base is updated on a quarterly basis and a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Indentification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.

Buyer [ ] and Seller [ ] have read this page.

CAUTION: The copyright laws of the United States forbid the unauthorized reproduction of this form by any means including scanning or computerized formats.
LIMITATION OF AGENCY: A real estate broker or agent is qualified to advise on real estate, if you have any questions concerning the legal sufficiency, legal effect, insurance, or tax consequences of this document or the related transactions, consult with your attorney, accountant or insurance advisor.

The undersigned Buyer acknowledges that he or she has thoroughly read and approved each of the provisions of this offer and agrees to purchase the property for the price and on the terms and conditions specified. Buyer acknowledges receipt of a copy of this offer.

Buyer __________________________ Date 4-4-02 Time __________________________

Buyer __________________________ Date __________________________ Time __________________________

Address __________________________ Modesto, Ca. 95356 __________________________

ACCEPTANCE

Seller accepts the foregoing Offer and agrees to sell the property for the price and on the terms and conditions specified.

NOTICE: The amount or rate of real estate commissions is not fixed by law. They are set by each Broker individually and may be negotiable between the Seller and Broker.

36. COMMISSION. Seller agrees to pay in cash the following real estate commission for services rendered, which commission Seller hereby irrevocably assigns to Broker(s) from escrow:

$ % of the accepted price, or $ , to the listing Broker: , and

% of the accepted price, or $ , to the selling Broker: , without regard to the agency relationship. Escrow instructions with respect to commissions may not be amended or revoked without the written consent of the Broker(s).

If Seller receives liquidated or other damages upon default by Buyer, Seller agrees to pay Broker(s) the lesser of the amount provided for above or one half of the damages after deducting any costs of collection, including reasonable attorney fees.

Commission will also be payable upon any default by Seller, or the mutual rescission by Buyer and Seller without the written consent of the Broker(s), which prevents completion of the purchase. This Agreement will not limit the rights of Broker and Seller provided for any existing listing agreement.

In any action for commission the prevailing party will be entitled to reasonable attorney fees whether or not the action is brought to trial or final judgment.

37. PROVISIONS TO BE INITIALED. The following items must be "agreed to" by both parties to be binding on either party. In the event of disagreement, Seller should make a counter offer.

Item 24. LIQUIDATED DAMAGES Item 25. MEDIATION OF DISPUTES Item 26. ARBITRATION OF DISPUTES

Seller acknowledges receipt of a copy of this Agreement. Authorization is given to the Broker(s) in this transaction to deliver a signed copy to Buyer and to disclose the terms of purchase to members of a Multiple Listing Service, Board or Association of REALTORS® at close of escrow.

38. IF CHECKED ☐ ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER DATED __________________________

Seller __________________________ Date __________________________ Time __________________________

Address __________________________

Seller __________________________ Date __________________________ Time __________________________

CAUTION: The copyright laws of the United States forbid the unauthorized reproduction of this form by any means including scanning or computerized formats.
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR LIQUID FERRIC CHLORIDE

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of liquid ferric chloride for FY 2002/2003 with the option of two (2) additional, one-year extensions, and

WHEREAS, liquid ferric chloride eliminates the need to use chlorine at the primary wastewater treatment plant, and

WHEREAS, liquid ferric chloride is used for controlling hydrogen sulfide gas odor and eliminates the potential hazards and cost associated with the maintenance and operation of the chlorinating process,

WHEREAS, by soliciting competitive bids for liquid ferric chloride, the Finance Department – Purchasing Division will comply with the Modesto Municipal Code, Section 8-3. 204, regarding formal bid procedures,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that formal solicitation of bids for liquid ferric chloride is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for liquid ferric chloride to be opened in the office of the City Clerk, 1010th 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 the Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk
A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALLY SOLICIT REQUEST FOR BIDS FOR LIQUID SULPHUR DIOXIDE

WHEREAS, the Operations and Maintenance Department-Water Quality Control (WQC) has requested the purchase of liquid sulphur dioxide for FY 2002/2003 with the option of two (2) additional, one-year extensions, and

WHEREAS, the City of Modesto is responsible for the proper disinfection of water that is discharged into the San Joaquin River based on the Regional Water Quality Control Board permit, and

WHEREAS, liquid sulphur dioxide is used at the Jennings Road facility to dechlorinate secondary treated wastewater before it is discharged into the San Joaquin River, and

WHEREAS, liquid sulphur dioxide is used during river discharge season from October through May, and

WHEREAS, by soliciting competitive bids for liquid sulphur dioxide, the Finance Department-Purchasing Division will comply with the Modesto Municipal Code, Section 8-3.204, regarding formal bid procedures,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that formal solicitation of bids for liquid sulphur dioxide is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for liquid sulphur dioxide to be opened in the office of the City Clerk, 1010th 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 the Council.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-179

A RESOLUTION ACCEPTING THE PROJECT TITLED "HETCH HETCHY BICYCLE PATH PHASE 3 (STANDIFORD TO SEMALLON)" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled Hetch Hetchy Bicycle Path Phase 3 (Standiford to Semallon), has been completed by George Reed, Inc., in accordance with the contract agreement dated August 14, 2001.

NOW, THEREFORE, BE IT RESOLVED that the Hetch Hetchy Bicycle Path Phase 3 (Standiford to Semallon) project be accepted from said contractor, George Reed, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $331,573.51 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 16th day of April, 2002, 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

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-180

A RESOLUTION ACCEPTING IMPROVEMENTS IN VILLAGE HIGHLANDS
PHASE 4 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND
AUTHORIZING RELEASE OF BONDS

WHEREAS, Inland Village, a General Partnership, subdividers of Village
Highlands Phase 4 subdivision, have filed irrevocable subdivision bonds to secure
faithful performance and payment for labor and materials in the amount of $1,186,300
and $593,150, respectively, and,

WHEREAS, JKB Homes, Inc., has filed a warranty bond in the amount of
$118,630 to guarantee improvements in Village Highlands Phase 4 subdivision, and,

WHEREAS, the Engineering & Transportation Director, in a memorandum to
Council, indicates that all work required by the Subdivision Agreement has been
completed, to the satisfaction of the Engineering & Transportation Department, and,

WHEREAS, the Engineering & Transportation Director has indicated that it
would be in order for the City Council to accept the improvements in said subdivision as
complete, and authorize the City Clerk to file notice of completion and release the bonds
upon expiration of the statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto:
1. The improvements in Village Highlands Phase 4 Subdivision are hereby accepted.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful
   performance in the amount of $1,186,300 upon recordation of the notice of
   completion.
3. The City Clerk is hereby authorized to release the subdivision bond for labor and
   materials in the amount of $593,150 sixty (60) days following the effective date
   of this resolution, provided no claim is made thereon.
4. The City Clerk is hereby authorized to release the warranty bond to guarantee
   improvements in the amount of $118,630 one year and one day following the
   effective date of this resolution, provided no claim is made thereon.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-181

A RESOLUTION ACCEPTING IMPROVEMENTS IN VILLAGE HIGHLANDS
PHASE 5 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND
AUTHORIZING RELEASE OF BONDS

WHEREAS, Inland Village, a General Partnership, subdividers of Village
Highlands Phase 5 subdivision, have filed subdivision bonds to secure faithful
performance and payment for labor and materials in the amount of $367,577 and
$183,788, respectively, and,

WHEREAS, JKB Homes, Inc., has filed a warranty bond in the amount of
$36,757 to guarantee improvements in Village Highlands Phase 5 subdivision, and,

WHEREAS, the Engineering & Transportation Director, in a memorandum to
Council, indicates that all work required by the Subdivision Agreement has been
completed, to the satisfaction of the Engineering & Transportation Department, and

WHEREAS, the Engineering & Transportation Director has indicated that it
would be in order for the City Council to accept the improvements in said subdivision as
complete, and authorize the City Clerk to file notice of completion and release the bonds
upon expiration of the statutory periods,

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

1. The improvements in Village Highlands Phase 5 Subdivision are hereby accepted.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful
   performance in the amount of $367,577 upon recordation of the notice of
   completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and
   materials in the amount of $183,788 sixty (60) days following the effective date
   of this resolution, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee
   improvements in the amount of $36,758 one year and one day following the
   effective date of this resolution, provided no claim is made thereon.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002, 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
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JANICE KEATING FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE APRIL 16, 2001

WHEREAS, JANICE KEATING was appointed a member of the Community Qualities Forum on June 26, 2001; and

WHEREAS, JANICE KEATING has tendered his resignation from the Community Qualities Forum, effective April 16, 2002; and

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

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

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to JANICE KEATING for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002, 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

04/16/02CMOE Puckett

2002-182
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-183

A RESOLUTION AUTHORIZING THE APPOINTMENT OF COUNCILMEMBER WILL O’BRYANT AND COUNCILMEMBER TIM FISHER TO JPA GOVERNING BOARD FOR THE EMERGENCY DISPATCH CENTER

WHEREAS, on March 19, 1999, Council approved an Emergency Dispatch renovation agreement to remodel, furnish, and equip the City/County building at 3705 Oakdale Road and approved a Joint Exercise of Powers Agreement with Stanislaus County for shared operation of the Emergency Dispatch Center effective September, 1999.

WHEREAS, the JPA Agreement calls for the creation of a governing board of seven members: three County, three City of Modesto and one member appointed by the six members of the JPA Governing Board.

WHEREAS, on August 3, 1999, the Modesto City Council appointed Councilmember Mike Serpa as the City Council representative and Councilmember Tim Fisher as alternate member to the Emergency Dispatch JPA Governing Board,

WHEREAS, the term of office for Councilmember Mike Serpa expired in December, 2001.

NOW, THEREFORE, be it resolved, that Councilmember WILL O’BRYANT is appointed as the City Council representative to the Emergency Dispatch JPA and Councilmember TIM FISHER is appointed as the City Council alternate.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-184

A RESOLUTION RATIFYING PREVIOUS COUNCIL DIRECTION TO STAFF AND CANCELING THE SPECIAL ALL MAIL BALLOT ELECTION PREVIOUSLY SCHEDULED FOR APRIL 29, 2002, FOR THE PURPOSE OF SUBMITTING TO THE PROPERTY OWNERS OF THE CITY OF MODESTO A RESOLUTION INCREASING THE STORM DRAINAGE SEWER SURCHARGE RATES BY 8%, DIRECTING STAFF TO CONFORM THE CITY'S CURRENT STORM DRAINAGE SEWER SURCHARGE RATE RESOLUTION TO THE CURRENT BILLING PRACTICES, DIRECTING THE CITY CLERK TO DESTROY ANY AND ALL BALLOTS SUBMITTED IN SAID ELECTION PURSUANT TO THE PROVISIONS OF THE CALIFORNIA ELECTIONS CODE, AND DIRECTING STAFF TO CONDUCT AN INDEPENDENT CONFORMANCE ANALYSIS OF ALL UTILITY BILLINGS TO ASSURE BILLING PRACTICES CONFORM TO ADOPTED RESOLUTIONS IN ALL CASES.

WHEREAS, on February 5, 2002, the City Council adopted Resolution No. 2002-52 calling for a special election to be conducted wholly by mail ballot to be held on April 29, 2002, for the purpose of submitting to the property owners of the City of Modesto a resolution increasing the City's storm drainage sewer surcharge rates by 8%, and to adjust said rates annually thereafter up to 3.5% per year for a period not to exceed four years, and

WHEREAS, the ballots for said election were mailed to the property owner voters on March 12, 2002, and

WHEREAS, City staff has determined that the rates reflected in the mailed ballot and the protest hearing notice previously mailed to said property owners in September, 2001, did not, for the reasons set forth below, fully inform the voters as to the basis of the rate calculation and all the reasons for the requested fee increase as required by Proposition 218, and
WHEREAS, the reason for said defective notice is that the actual basis for the rates currently in effect is different than the rate basis set forth in the notice and the previously Council adopted rate resolution with the result that the City has been underbilling every rate category except single-family residential for ten or more years, and the cumulative affect of the underbilling is approximately $1.5 million, and

WHEREAS, the City Attorney has advised the City Council that the legal effect of failure to advise the voters of these material facts is a violation of Proposition 218, and

WHEREAS, the City Council received the City Attorney’s advice in a closed session held for that purpose on April 9, 2002, and directed staff to cancel the April 29, 2002 storm drain sewer surcharge election,

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

SECTION 1. Resolution No. 2002-52 calling for said storm drainage sewer surcharge election is hereby rescinded and said election is hereby canceled thereby ratifying the direction previously given to staff to cancel said election.

SECTION 2. The City Clerk of the City of Modesto is hereby ordered to retain said ballots in an unopened state for the period set forth in Chapter 4 of Division 17 of the California Elections Code (Elections Code Section 17300 et seq.) and to thereafter destroy said ballots in accordance with said statutes.

SECTION 3. City staff is hereby directed to develop a new storm drainage sewer surcharge rate resolution that conforms to the City’s current billing practices for later approval by the City Council.
SECTION 4. City staff is hereby directed to conduct an independent conformance analysis of all utility billings to assure billing practices conform to adopted resolutions in all cases.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of April, 2002, 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 ZAHN, City Clerk

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING AN AMENDMENT TO THE ANIMAL
CONTROL SHELTER SERVICES AGREEMENT TO EXTEND THE TERM OF
SAID AGREEMENT AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto and County of Stanislaus entered into an
Agreement for Animal Control Shelter Services on February 28, 1972, and
WHEREAS, said Agreement was for a term of thirty (30) years, thus expiring on
February 28, 2002, and
WHEREAS, the parties now wish to enter into a new Agreement with different
conditions, promises and covenants, and
WHEREAS, the 1972 Agreement specifically authorizes an Amendment to the
Agreement at any time by mutual agreement of the parties in writing, and
WHEREAS, the parties understand and agree it is necessary to extend the term of
the 1972 Agreement in order to allow the parties sufficient time to negotiate, prepare and
to submit said Agreement to their respective agencies for approval, and
WHEREAS, the parties agree to amend the 1972 Agreement so that the
conditions, promises and covenants of that Agreement are in effect for a term beginning
on March 1, 2002, and terminating on September 30, 2002, and a copy of the Amendment
is attached to this Resolution, and
WHEREAS, it is necessary for the City Council to adopt a resolution authorizing
the City Manager to execute the Amendment to the 1972 Agreement.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
as follows:
The City Manager is hereby directed to execute an Amendment to the 1972
Animal Control Shelter Services Agreement extending the conditions, promises and
covenants of that Agreement for a term to begin on March 1, 2002, and to terminate on
September 30, 2002.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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. 2002-186

A RESOLUTION INCREASING LOAN LIMITS FOR EMERGENCY HOME REPAIR PROGRAM AND COMBINED EMERGENCY HOME REPAIR PROGRAM/DISABLED ACCESS ASSISTANCE PROGRAM AND APPROVING HOUSEKEEPING CHANGES TO CHAPTER 12 OF THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, RECREATION AND NEIGHBORHOOD SERVICES DIVISION MANUAL.

WHEREAS, the City operates the Emergency Home Repair Program (EHRP) and the Disabled Access Assistance Program (DAAP) to provide loans to repair or eliminate emergency conditions in homes including critical health and safety hazards, and to provide assistance for disabled persons in making their homes more accessible, and

WHEREAS, staff is recommending that the maximum loan limits be increased to $15,000 for Emergency Home Repair Program Loans and to $25,000 for combined Emergency Home Repair Program/Disabled Access Assistance Program loans to address current costs for repairs and required testing and permits, and

WHEREAS, staff is also recommending that Chapter 12 of the Policy and Procedures Manual for the Parks Recreation and Neighborhoods Department, Recreation and Neighborhoods Services Division be re-written to include these changes as well as other housekeeping items, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 28, 2002, and supported the recommended changes to the loan program limits and to the Policy and Procedures Manual,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby increases the maximum loan limits for Emergency Home Repair Program Loans to $15,000 and to $25,000 for combined Emergency Home Repair Program/Disabled Access Assistance Program loans.

BE IT FURTHER RESOLVED that Chapter 12 of the Policy and Procedures Manual for the Parks Recreation and Neighborhoods Department, Recreation and Neighborhoods Services Division is hereby approved as rewritten, as set forth in Exhibit "A", attached hereto and incorporated 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 April, 2002, 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
12.1 INTRODUCTION

The City of Modesto Recreation and Neighborhood Services Division administers the Emergency Home Repair Program. The Emergency Home Repair Program was established as a voluntary City-wide program by the City Council in 1980 to assist homeowners outside the established Housing Rehabilitation Target Areas. On January 25, 1994, as part of an amended Final Statement to the Community Development Block Grant Program application, for Fiscal Year 1993-94, the City Council approved the reactivation of the Emergency Home Repair Program.

In order to provide the opportunity to process requests for disabled access assistance faster for disabled clients, effective December 18, 1996, the Housing Rehabilitation Loan Committee approved the combining of the residential property portion of the Handicap Barrier Removal Program with the Emergency Home Repair Program and renamed it Disabled Access Assistance Program – thus, the new combined name for this chapter and for the program. On _____________, City Council Resolution _____, the EHRP/DAAP loan limits were revised to a $15,000 maximum for EHRP, $10,000 maximum for DAAP, and $25,000 maximum for combined EHRP/DAAP.

This Community Development Block Grant funded program addresses emergency home repairs and is designed to eliminate critical health and safety hazards in homes and to address disabled access assistance needs for residential properties occupied by disabled individuals or their qualifying dependents who live at the property as their permanent residence. The regular emergency repair assistance program covers repair of hazardous conditions to enable the homeowner to safely reside within the dwelling, while the disabled access assistance program covers repairs to reduce the number of substandard and/or non-disabled accessible residential housing units in the City of Modesto.

12.2 ELIGIBLE REPAIRS UNDER THE EMERGENCY HOME REPAIR PROGRAM

A. Participation in this program is limited to a maximum outstanding Emergency Home Loan Program balance of $15,000 against the owner-occupied property. Eligible program applicants may be granted more than one loan for a property provided the costs for repairs do not exceed the current outstanding loan cap for the property.

B. Emergency Home Repair assistance shall be provided only for conditions, which prevent continued safe occupancy of the property, as defined under the provisions of the Modesto Housing Code. Eligible emergency repairs under the program include, but are not limited to the following:
• Roofing and weatherization
• Heating, plumbing and electrical systems
• Structural integrity of the dwelling
• Other repairs must be pre-approved by the Recreation and Neighborhood Services Division

C. Eligible Applicant Criteria:

1. The applicant shall have legally recorded title to the real property in need of emergency repairs and must reside in the property as their permanent residence.

2. The applicant's total gross annual household income shall not exceed 80% of the median area income for Modesto. The median area incomes are established and adjusted annually by the U.S. Department of Housing and Urban Development (HUD).

3. The applicant shall complete a request for assistance form provided by the Recreation and Neighborhood Services Division.

D. Eligible Property Criteria:

1. The real property shall be a single-family residential dwelling or an owner occupied duplex that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.

2. The property shall be located within the incorporated limits of the City of Modesto.

3. The property shall be in need of emergency repair to correct health and safety hazards necessary to allow continued occupancy.

12.3 ELIGIBLE PROJECTS UNDER THE DISABLED ACCESS ASSISTANCE PROGRAM

A. Participation in this program is limited to a maximum outstanding Disabled Access Assistance Program loan cap of $10,000 per residential property. Eligible applicants may be granted more than one loan for a property, provided the costs for all repairs under this program do not exceed the current outstanding loan cap for the property.

B. Eligible projects under the Disabled Access Assistance Program include, but are not limited to the following:

• Installation of plumbing fixtures
• Installation of ramps and handrails
• Widening of doorways
• Alteration or installation of health and sanitary facilities
• Repair of other hazardous conditions that threatens the health and safety of disabled occupants
• Lowering counters
Other repairs must be pre-approved by the Recreation and Neighborhood Services Division

C. Eligible Applicant Criteria:

1. The applicant shall present verification of the need for Disabled Access Assistance i.e.; note from their doctor or other third party confirmation.

2. The owner-occupant applicant or tenant applicant's income shall not exceed 80% of the Median Area income for Modesto. The median area incomes are established and adjusted annually by the U.S. Department of Housing and Urban Development (HUD).

3. The owner-occupant applicant shall have legally recorded title to the real property in need of disabled access assistance repairs.

4. The tenant applicant’s landlord shall have legally recorded title to the property in need of disabled access assistance repairs and be willing to sign for the loan for the repairs.

5. The tenant applicant shall be a disabled permanent resident or a qualifying disabled dependent of the tenant of a rental unit whose permanent residence is the unit where the disabled access assistance repairs are to be completed. The tenant applicant shall receive written confirmation from the landlord indicating that he will agree to sign the required loan documents to enable the repairs to be made.

6. The owner-occupied or tenant applicant shall complete a request for assistance form provided by the Recreation and Neighborhood Services Division. In case of a tenant applicant, the tenant shall complete a Request for Assistance form and have it signed by the owner of the property being considered for disabled access assistance repairs.

7. The owner-occupant applicant shall complete and sign a loan application form approved by the City of Modesto.

D. Eligible Property Criteria:

1. The real property shall be a single-family residential dwelling or owner or tenant occupied portion of a duplex that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.

2. The property shall be located within the incorporated limits of the City of Modesto.

3. The real property shall require disabled access assistance repairs to allow continued safe permanent occupancy of the house by the disabled family member of the household.
12.4 ELIGIBLE ITEMS UNDER THE COMBINATION EMERGENCY HOME REPAIR AND DISABLED ACCESS ASSISTANCE PROGRAM

A. Participation in both parts of the program is limited to a maximum outstanding City loan cap of $25,000 for each residential property using the combined programs.

B. Applicants must meet the eligibility criteria for both parts of the program to be eligible for assistance under the combination Emergency Home Repair and Disabled Access Assistance Program as set forth in this chapter under “Applicant Eligibility Criteria” and “Property Eligibility Criteria.”

C. The repairs under these programs shall not include incipient hazards, neighborhood upgrades, general property improvements.

D. Requests for repairs not specified in these programs may be considered on a case-by-case basis.

Note: Neither temporary relocation nor moving/storage costs shall be paid for by the Recreation and Neighborhood Services Division. The applicant must make arrangements for and pay for these costs. In special hardship cases approved by the Housing Program Supervisor, the costs may be included in the applicant’s loan.

12.5 AVAILABLE FINANCIAL ASSISTANCE

A. An eligible borrower may qualify for up to an outstanding City loan cap of $15,000 for each owner-occupied property for regular emergency home repair assistance or an outstanding City loan cap of $25,000 per property for a project requiring a combination of regular emergency home repairs and disabled access assistance repairs to residential properties.

B. The interest rates and terms available for participants in the programs are:

1. **Deferred Payment Loan** – Up to 50-year term, and 3% fixed interest rate. This type of loan is due and payable immediately upon sale or transfer of the legal title to the property to another title holder or if the beneficiary no longer resides in the house. To qualify for this loan the applicant’s total gross annual household income shall be at or below 50% of the Median Area Income (MAI).

2. **Payment Required Loan** – Amortized loan for up to 15 years with fixed interest rate at 3%. This type of loan is due and payable immediately upon sale or transfer of the legal title to the property to another title holder or if the beneficiary no longer resides in the house. To qualify for this level of financial assistance, the applicant’s total gross annual household income shall be between 50% to 80% of the Median Area Income (MAI) or if the loan is a DAAP loan to a non-owner occupied residence. Owner occupied hardship cases may be reviewed by the Housing Rehabilitation Loan Committee (HRLC) on a case-by-case basis to determine if a DPL is merited.
C. These loans are normally non-assumable and shall be repaid if the applicant no longer resides in the home or transfers title to the home. The Housing Rehabilitation Loan Committee may waive this requirement on a case-by-case basis.

Subordinations are normally not allowed. The Housing Rehabilitation Loan Committee may waive this requirement on a case-by-case basis where extreme hardship can be proven.

12.6 AVAILABLE TECHNICAL ASSISTANCE

Applicants may request assistance with drawing up repair plans, work write-up assistance, cost estimates assistance, project bidding assistance, monitoring repair work during the rehabilitation stage, and ensuring that the project is successfully completed according to the Rehabilitation Specialist’s owner-approved work write-up specifications.

12.7 APPLICATION PROCESS

A. When a homeowner requests assistance under the Emergency Homes Repair Program, or Disabled Access Assistance Program, the Housing Financial Specialist shall do a preliminary (verbal) qualification to determine if the household is income eligible and the property occupancy is eligible. If the project is determined to be eligible, then the request will be forwarded to the Housing Program Supervisor. The Housing Program Supervisor will immediately review the case and forward it to the Senior Housing Rehabilitation Specialist for case assignment within the rehab staff.

B. The Housing Rehabilitation Specialist who is assigned the case shall immediately make an appointment with the homeowner to inspect the residence and complete the Emergency Hazard Survey Checklist for Emergency Home Repair/Disabled Access Assistance Program. If the hazardous condition(s) are deemed eligible for the EHRP/DAAP, (1) the homeowner will be given a loan application package to complete (2) the signed Survey Checklist will be given to the Housing Financial Specialist. If the project is not eligible, the Rehab Specialist will notify the Financial Specialist.

After the homeowner has completed the application and compiled the necessary papers, they must contact the Housing Financial Specialist for an interview appointment. The Housing Financial Specialist pre-qualifies the homeowner for the EHRP/DAAP upon verification of allowable household income for eligible household, a clear title report, evidence of current homeowner’s insurance, satisfactory credit report, and verification of outstanding mortgage loan(s), and other unsecured debt. If pre-qualified, the applicant is instructed that any change to their household income, size, or debts could affect their further eligibility under the program. The homeowner is explained the loan process, fees, and loan types. The case is given back to the Housing Rehabilitation Specialist for further inspection and processing. If the homeowner is deemed ineligible under the EHRP/DAAP, the homeowner is sent a denial letter.
C. During the follow-up visit to the property, the Housing Rehabilitation Specialist shall do the following:

1. Compile the information for the work write-up needed to address the critical emergency and any other eligible repairs and obtain the signed Request for Assistance.

2. Provide a cost estimate to the property owner for the proposed work emphasizing that an exact figure will not be available until written bids have been obtained from contractors.

3. Explain the bid, contract, contract monitoring, and contractor payment procedures to the property owner.

4. Inform the property owner of temporary relocation requirements and procedures and let the Housing Financial Specialist know if a temporary relocation plan shall be required.

5. Inform the property owner about other programs for which he/she may benefit.

6. Explain and obtain property owner's signature on Advance Payment Agreement on any up-front costs that the property owner will be responsible for if the loan does not close. This includes, but is not limited to, Lead Based Paint testing and clearance and termite inspections. Advance payments should not exceed $250 per item, unless special approval is given by the Housing Program Supervisor.

D. Upon returning to the Recreation and Neighborhood Services Division, the Housing Rehabilitation Specialist shall do the following:

1. Prepare a Work Write-up. The WW needs to be reviewed by the Housing Program Supervisor and the homeowner before being posted for bid.

1. Obtain at least two bids for repairs. Property owner can contact contractors and ask them to pick up a bid package from the Recreation and Neighborhood Services office. If two bids for repairs cannot be obtained, the Housing Program Supervisor may waive the requirement.

2. Compare contractor bids to staff in-house cost estimate to ensure the contractor estimates adequately cover all items on the Work Write-up and the costs are reasonable.

3. Have property owner select a contractor from the Bid Certification Document checked “valid” and opposite the bid amount, and complete and sign the contractor selection portion of the form indicating the reason for selecting the particular contractor. (A valid bid is between 85% and 115% of the in house estimate, not exceeding the program limit. Bid may be below 85% of staff estimate if management has sufficient evidence that contractor can complete
work for that bid. This must be approved by the Housing Program Supervisor.)

4. Present approved work write-up, contractor estimates, Bid Selection and Certification document, Environment Review Form, Staff Cost Estimate, completed Contract, and loan submittal form, to the Housing Financial Specialist.

5. The Housing Financial Specialist will update any financial information that is necessary, and complete the Housing Rehabilitation Loan Committee report for the next meeting. The HRLC will recommend to the City Manager to execute the loan agreement, the Housing Financial Specialist shall prepare the applicable loan documents, and forward the signed documents to the City Attorney's office for review, the City Manager’s office for approval and signature, and to the City Clerk for signature. If the loan is declined, the applicant will be notified and will be mailed a denial letter.

6. Upon recording of the Deed of Trust, the Housing Financial Specialist shall forward the Order to Proceed to the Housing Rehabilitation Specialist for the customer to sign and be completed. The Order to Proceed shall be issued to the contractor and he/she shall be instructed to begin repair work per the Order to Proceed date after obtaining the required permits.

7. The loan is booked with our loan servicer and the City’s accounting division of the Finance Department.

E. During the project, the following shall occur:

1. The Housing Rehabilitation Specialist is to work with homeowner and contractor to oversee that work begins in a timely manner and is completed in a satisfactory manner, and within the specifications of the contract and bid.

2. All variations of the contract or bid, or any unforeseen problems, are written as a Change Order, and signed by the homeowner, contractor, Housing Rehabilitation Specialist, and approved by the Housing Program Supervisor.

F. Once the project has been completed, the following shall occur:

1. Final inspection by Building Inspector, Housing Rehabilitation Specialist, contractor, and property owner.

2. Sign-off on certificate of completion by the property owner, Housing Rehabilitation Specialist, contractor, and Building Inspector.

3. Obtain completed and signed check request from the contractor, by the Housing Rehabilitation Specialist.

4. Housing Rehabilitation Specialist submits check request to Housing Financial Specialist for processing.
5. Housing Rehabilitation Specialist gives field file to Housing Financial Specialist for combining with Finance file.


7. Housing Financial Specialist files a copy of Certificate of Completion.

8. Housing Financial Specialist closes out account for project.

12.8 SPECIAL PROJECT CONSIDERATIONS

A. In the event, the Housing Rehabilitation Specialist finds the repair work to be satisfactory but the property owner disagrees, the grievance procedures contained in Chapter 9 shall be followed.

B. All monies left over from the client’s loan proceeds after all bills are paid shall be applied to reduce the principal balance of the client’s loan with in 30 days.

C. Participants in this program shall not be eligible for participation in the Toolbank, insulation rebate or paint rebate programs, unless the home is in a current Target Area.

D. If temporary relocation, temporary storage or temporary moving expenses are required for a project under this program, the expenses may be included in the client’s loan, as long as the total amount does not exceed the maximum cap for outstanding City loan against the property.

E. The use of funds for addressing disabled access assistance does not imply on the part of the City of Modesto that the project repairs meet ADA requirements.

F. This version of the program supersedes all previous versions.

12.9 EXTREME EMERGENCIES – (Applicable to owner-occupied properties)

A. Whenever any condition constituting an eligible repair exists to such a degree that it poses an immediate threat to life, such condition shall be referred to as an “extreme emergency” and shall be eligible for special procedures. The Deputy Director, Parks, Recreation and Neighborhoods, Recreation and Neighborhoods Division, may authorize the immediate repair of the extreme emergency conditions not to exceed the maximum cap for outstanding City loan against the property. Work for projects under this category of repair shall commence immediately to eliminate the life-threatening or extremely dangerous situation.

B. Proof of ownership of the property, annual income and household size shall be provided to the Housing Financial Specialist before the completion of the Advance Payment Agreement and start of repairs.
12.9 PROGRAM ADMINISTRATION

A. The Housing Rehabilitation Loan Committee (HRLC) shall retain responsibility and oversight for the Emergency Home Repair Program and the Disabled Access Assistance Program for residential properties.

B. All loans approved under the Emergency Home Repair Program and the Disabled Access Assistance Program for residential properties shall be submitted to the HRLC for their recommendation to the City Manager to execute any EHRP/DAAP loan agreements.

C. The Recreation and Neighborhood Services Division shall be responsible for the daily administration of the programs, including accepting and processing loan applications; execution of loan papers; determining eligibility of applicants and their property; inspection of their property and determination of eligible repairs; preparation of a work write-ups and cost estimates, assisting applicants in obtaining a contractor; monitoring the repair work; and seeing that disputes of adequacy of work and payments are properly arbitrated.

12.10 UNUSUAL EMERGENCY CASES – (Applies to Owner-Occupied Properties)

Whenever unusual emergency cases occur such as fire damaged properties causing the occupants to become homeless or the situation contributes to an unhealthy or unsafe temporary living environment, the Deputy Director, Parks, Recreation and Neighborhoods Department, Recreation and Neighborhood Services may waive the restriction relating to temporary relocation, temporary moving and temporary storage, and for participation in the paint and insulation programs. These cases may occur when homes are damaged by fire, and the fire insurance policy does not provide money to complete all the repairs to bring the unit up to minimum code requirements or health, safe and sanitary living conditions.

NOTE: Any reference to the gender “he” or “him” applies to gender “she” or “her”.
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-187

A RESOLUTION RECOMMENDING TO THE HOUSING AND URBAN
DEVELOPMENT DEPARTMENT THAT HARVEST OF HOPE BE
DESIGNATED AS A COMMUNITY BASED DEVELOPMENT
ORGANIZATION.

WHEREAS, the Parks, Recreation and Neighborhoods Department has received a
request from the Harvest of Hope, a local non-profit, neighborhood based organization, to
obtain a Housing and Urban Development (HUD) designation as a Community Based
Development Organization (CBDO), and

WHEREAS, according to HUD regulations, the Harvest of Hope is a qualified
organization, and

WHEREAS, staff believes that the Harvest of Hope is committed to serving low
and moderate income residents of South-West Modesto, and

WHEREAS, the Citizens Housing and Community Development Committee met
on March 28, 2002, and supported the recommendation to seek CBDO designation for
Harvest of Hope,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that the Council hereby recommends to the Housing and Urban Development Department
that Harvest of Hope be authorized as a Community Based Development Organization.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-188

A RESOLUTION ACCEPTING THE REGIONAL SPORTS FACILITY STUDY FINAL DRAFT ACTION PLAN REPORT AND DIRECTING STAFF TO USE THIS STUDY WHEN PLANNING FUTURE SPORTS FACILITIES IN MODESTO

WHEREAS, due to the recent increase in youth and adult sports organizations in the area, staff and officials from the City of Modesto and Stanislaus County hypothesized that a shared network of facilities would be valuable, and

WHEREAS, on December 7, 1999, the City Council approved a contract with the Beals Group, Inc, to complete a Regional Sports Facility Study, and

WHEREAS, the Final Draft Action Plan Report (Draft) has been completed, and

WHEREAS, prior to preparation of the Final Action Plan Report, City Council acceptance of the Draft is needed, and

WHEREAS, the Human Services Committee has received regular updates and took action on April 4, 2001 and November 26, 2001 to increase public involvement in the process, and,

WHEREAS, a joint community workshop was held on March 25, 2002, at which the Draft was presented to the Modesto City Council, the Stanislaus County Board of Supervisors and the public.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Regional Sports Facility Study Final Draft Action Plan Report.

BE IT FURTHER RESOLVED that staff is directed to use this report for future planning of sports facilities in Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING THE APPLICATION FOR $35,750 IN LAND AND WATER CONSERVATION FUNDS FOR THE CREEKWOOD NEIGHBORHOOD PARK PICNIC SHELTER PROJECT

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-in-Aid Program, providing matching funds to the State of California and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the State Department of Parks and Recreation is responsible for administration of the program in the state, setting up necessary rules and procedures governing application by local agencies under the program, and

WHEREAS, said adopted procedures established by the State Department of Parks and Recreation 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, and

WHEREAS, the proposed Creekwood Neighborhood Park Picnic Shelter Project is consistent with the Statewide Comprehensive Recreation Resources Plan: California Outdoor Recreation Plan 1994, and,

WHEREAS, the project must be compatible with the land use plans of those jurisdictions immediately surrounding the project, and

WHEREAS, the Human Services Committee met on April 11, 2002, and supported submission of the grant application,

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

1. Approves the filing of an application for Land and Water Conservation Fund assistance in the amount of $35,750 and
2. Certifies that said agency has matching funds from the following source: Capital Facilities Fees-Parks, and can finance 100 percent of the project, half of which will be reimbursed; and
3. Appoints the City Manager as agent of the city to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, agreements, amendments, billing statements, and so on which may be necessary for the completion of the aforementioned project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-190

A RESOLUTION APPROVING A REQUEST FROM THE JUNETEENTH CELEBRATION COMMITTEE FOR $4,750 IN DIRECT CITY ASSISTANCE FOR THE 2002 JUNETEENTH CELEBRATION TO BE HELD AT MELLIS PARK AND KING-KENNEDY MEMORIAL CENTER ON JUNE 13, 14 AND 15, 2002.

WHEREAS, Juneteenth is a celebration of the day African-Americans gained their freedom from physical slavery, and
WHEREAS, the purpose of the event is to promote cultural awareness to the community, and
WHEREAS, the City has co-sponsored this event for a number of years, and
WHEREAS, the request for City assistance is for a cash contribution of $4,750 to assist with funding for new components of the event to include African dance, increased youth activities, a keynote speaker and a Buffalo Soldiers reenactment group, and
WHEREAS, the City Council, by Resolution No. 80-1066, as amended by Resolution No. 83-128, adopted a “policy for Evaluating Requests for Direct City Assistance”, and
WHEREAS, at its April 11, 2002 meeting, the Human Services Committee supported awarding direct City assistance in the sum of $4,750 to the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the Juneteenth Celebration Committee for $4,750 in direct City assistance for the 2002 Juneteenth Celebration to be held at Mellis Park and King-Kennedy Memorial Center on June 13, 14 and 15, 2002.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-191

A RESOLUTION AMENDING THE BUDGET TO TRANSFER $4,750 FROM THE GENERAL FUND RESERVE TO PROVIDE DIRECT CITY ASSISTANCE TO THE 2002 JUNETEENTH CELEBRATION.

WHEREAS, Juneteenth is a celebration of the day African-Americans gained their freedom from physical slavery, and

WHEREAS, a request for direct City assistance in the sum of $4,750 was made by the King-Kennedy Board of Directors by letter dated March 2, 2002, and

WHEREAS, at its April 11, 2002 meeting, the Human Services Committee supported awarding direct City assistance in the sum of $4,750 to the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2001-02 operating budget is hereby amended to transfer $4,750 from the General Fund Reserve, 0100-800-8000-8003, to King-Kennedy Memorial Center, Services Professional & Other, 0100-370-3731-0235, to provide direct City assistance for the 2002 Juneteenth celebration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

04/23/02/PR&N/T Muhammad 1 2002-191
A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 CAPITAL IMPROVEMENT BUDGET ACCEPTING A FEDERAL HAZARD ELIMINATION SAFETY GRANT FOR $187,00 AND CREATING A NEW CAPITAL IMPROVEMENT PROJECT, ENTITLED "ROADWAY ILLUMINATION AT 29 INTERSECTIONS"

WHEREAS, the City was awarded a grant of $187,000 from a Hazard Elimination Safety grant for street illumination, and

WHEREAS, said funds can be utilized for the installation of streetlights at twenty-nine (29) intersections within the City of Modesto, thereby enhancing safety for both pedestrians and motorists,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2001-02 Capital Improvement Plan budget accepting a Federal Hazard Elimination Safety grant for $187,000, and creating a new Capital Improvement Project entitled "Roadway Illumination at 29 Intersections."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

(SEAL)

APPROVED AS TO FORM:

____________________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-192A

A RESOLUTION ACCEPTING TWO FEDERAL HAZARD ELIMINATION SAFETY GRANTS FOR $282,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE NECESSARY GRANT DOCUMENTS

WHEREAS, the City has recently received notice that it was awarded grants for $95,000 for the installation of streetlights in the McHenry Village area and $187,000 for installation of streetlights at 29 intersections within the City of Modesto as set forth in Exhibit “A” attached hereto, and

WHEREAS, these grants will be used to illuminate residential streets in dark neighborhoods, thereby enhancing safety for both pedestrians and motorists,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Federal Hazard Elimination Safety grants in the amount of $95,000 and $187,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents for said projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
EXHIBIT A
HAZARD ELIMINATION SAFETY PROGRAM (HES)
INTERSECTIONS

Roadway Illumination at 29 Intersections:

1. Brighton Avenue and Irons Court
2. 10th Street and Morton Boulevard
3. 11th Street and Morton Boulevard
4. 12th Street and Morton Boulevard
5. Bridgford Lane and Hastings Lane
6. Bridgford Lane and Durham Lane
7. Durham Lane and Weymouth Lane
8. Hastings Lane and Weymouth Lane
9. Bridgford Lane and Harrow Court
10. Bridgford Lane and Greenwich Lane
11. Doncaster Lane and Greenwich Lane
12. Doncaster Lane and Robinhood Drive
13. Parkwood Drive and Heartwood Way
14. Westwood Avenue and Ruby Lane
15. Westwood Avenue and Opal Avenue
16. Roseburg Avenue and Grinnell Street
17. Dawn Drive and Collier Avenue
18. Dawn Drive and Trombetta Avenue
19. Northbound Sycamore Avenue at Griswold Avenue
20. El Vista Avenue and Glendale Avenue
21. El Vista and Hadden
22. El Vista and Roble
23. El Vista and Moran
24. El Vista and Ada
25. El Vista and Ellis
26. El Vista and Lambert
27. El Vista and Carol
28. El Vista and Edgebrook
29. El Vista and Edgebrook Drive South

Roadway Illumination McHenry Village Area (5 streets):
1. Honeysuckle Drive
2. Gardenia Road
3. Cameo Way
4. Dixie Lane
5. E. Granger Avenue from Honeysuckle Drive to Sunrise Avenue
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-193

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 CAPITAL IMPROVEMENT BUDGET ACCEPTING A FEDERAL HAZARD ELIMINATION SAFETY GRANT FOR $95,000 AND CREATING A NEW CAPITAL IMPROVEMENT PROJECT, ENTITLED “ROADWAY ILLUMINATION IN THE MCHENRY VILLAGE AREA (FIVE INTERSECTIONS)”

WHEREAS, the City was awarded a grant of $95,000 from a Hazard Elimination Safety grant for street illumination, and

WHEREAS, said funds can be utilized for the installation of streetlights at five (5) intersections in the McHenry Village area, thereby enhancing safety for both pedestrians and motorists,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2001-02 Capital Improvement Plan budget accepting a Federal Hazard Elimination Safety grant for $95,000, and create a new Capital Improvement Project entitled “Roadway Illumination in the McHenry Village Area (Five Intersections).”

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

(SEAL)

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

04/23/02/E&T/F Vohra 2002-193
A RESOLUTION ACCEPTING THE PROJECT TITLED “SISK ROAD RECYCLE – BRIGGSMORE AVENUE TO DALE ROAD” AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled Sisk Road Recycle – Briggsmore Avenue to Dale Road, has been completed by George Reed, Inc., in accordance with the contract agreement dated August 9, 2001.

NOW, THEREFORE, BE IT RESOLVED that the Sisk Road Recycle – Briggsmore Avenue to Dale Road project be accepted from said contractor, George Reed, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $1,700,853.75 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 23rd day of April, 2002, 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

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6.

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

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

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Street and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.
d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

c. Notice of the time, as fixed by the Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2002-03.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that the existing improvements to be made in said assessment district are generally described as follows:

   The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:

   a. Street medians in Creekwood Drive
   b. Areas adjacent to the access control walls along Creekwood Drive
   c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).
4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 18th day of June, 2002, at the hour of 5:15 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

The City Clerk is authorized and directed to give the notice of hearing required by the Landscaping and Lighting Act of 1972.

The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-196

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISION Nos. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS No. 1 & 2.

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

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

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, Section 22623 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.
d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during the fiscal year 2002-03.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

   The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to landscape irrigation systems in the following locations:
   a. Street medians in Creekwood Drive
   b. Areas adjacent to the access control walls along Creekwood Drive
   c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).
4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Tuesday, the 18th day of June, 2002, at the hour of 5:15 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscaping and Lighting Act of 1972.

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

04/23/02/E&T/R Granberg 3 2002-196
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-197

A RESOLUTION ACCEPTING IMPROVEMENTS IN MILLBROOK ESTATES UNIT NO. 3 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING RELEASE OF BONDS

WHEREAS, Bright Development, a California Corporation, subdividers of Millbrook Estates Unit No. 3 subdivision, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of $729,207 and $364,603, respectively, and
WHEREAS, Bright Development, a California Corporation, has filed a warranty bond in the amount of $72,920 to guarantee improvements in Millbrook Estates Unit No. 3 subdivision, and
WHEREAS, the Engineering & Transportation Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed, to the satisfaction of the Engineering & Transportation Department, and
WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file notice of completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in Millbrook Estates Unit No. 3 Subdivision are hereby accepted.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $729,207 upon recordation of the notice of completion.
3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $364,603 sixty (60) days following the effective date of this resolution, provided no claim is made thereon.
4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $72,920 one year and one day following the effective date of this resolution, provided no claim is made thereon.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-198

A RESOLUTION AUTHORIZING THE PURCHASE OF A PIERCE 105 FOOT AERIAL LADDER TRUCK FROM GOLDEN STATE FIRE APPARATUS FOR A TOTAL COST OF $631,177.09 AND AUTHORIZING THE SALE OR TRADE-IN OF A 1991 LTI TILLER (CITY IDENTIFICATION #85055) FOR NO LESS THAN $84,000.

WHEREAS, in the interests of firefighter and public safety, the Fire Department is required to evaluate the mechanical stability of each of its ladder trucks each year, and

WHEREAS, a technical evaluation of the City's fire apparatus was conducted by Underwriter's Laboratories, with the truck manufacturers and the National Fire Protection Association establishing the standards, and

WHEREAS, subsequent to the evaluation, staff determined that the "all-wheel" steering technology best serves the Fire Department's needs, and

WHEREAS, only Pierce Fire Apparatus offers the "all-wheel" steering technology, and

WHEREAS, the department desires to purchase a 2002 Pierce, 105 foot aerial ladder truck from Golden State Fire Apparatus at a cost of $631,177.09, and

WHEREAS, Modesto Municipal Code Section 8-3.203(d) provides for the purchase of products based solely upon technical evaluation, and

WHEREAS, Modesto Municipal Code Section 8-3.203(b) provides an exemption to the formal bidding requirements for a purchase that can be met solely by a single patented article or process ("all-wheel" steering), and

WHEREAS, at the time of delivery of the new Pierce aerial ladder truck, the City desires to either sell or trade-in a 1991 LTI Tiller aerial ladder truck (I.D. number 85055), for a minimum of $84,000, and

WHEREAS, the purchase of a new aerial ladder truck was presented to the Public Safety Committee at its meeting on February 7, 2002, and support for the purchase was recommended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of a Pierce 105 foot aerial ladder truck from Golden State Fire Apparatus, at a price not to exceed $631,177.09.
BE IT FURTHER RESOLVED that upon delivery of the new Pierce 105 foot aerial ladder truck, the Council hereby authorizes either the sale or trade-in of a 1991 LTI Tiller ladder truck (I.D. number 85055) at a price not less than $84,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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, Friedman, Jackman, Keating, O'Bryan, 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. 2002-199

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 OPERATING BUDGET TO TRANSFER $208,178 FROM FIRE ABS SAVINGS INTO THE FLEET FUND DESIGNATED FOR FIRE LADDER TRUCK PURCHASE.

WHEREAS, THE City Council desires to purchase a new Fire Ladder Truck for use in the Fire Department;

NOW, THEREFORE, BE IT RESOLVED BY THE council of the City of Modesto that the Fiscal Year 2001-02 Operating Budget is hereby amended as follows:

<table>
<thead>
<tr>
<th>Account</th>
<th>Current Budget</th>
<th>Adjustment</th>
<th>Revised Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Engine Pumper</td>
<td>7210-480-5814-5882</td>
<td>339,000</td>
<td>208,178</td>
</tr>
<tr>
<td>Transfer In to Fleet Fund</td>
<td>7210-700-7000-9010</td>
<td>681,000</td>
<td>208,178</td>
</tr>
<tr>
<td>Transfer Out of General Fund</td>
<td>0100-700-7000-7721</td>
<td>681,000</td>
<td>208,178</td>
</tr>
<tr>
<td>Fire ABS Savings</td>
<td>0100-180-1802-8099</td>
<td>510,000</td>
<td>(208,178)</td>
</tr>
</tbody>
</table>

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING FILING FEES FOR CONDITIONAL USE
PERMITS, RESTATING FILING FEES FOR ZONE BOUNDARY CHANGES,
VARIANCES, ENVIRONMENTAL REVIEW, SUBDIVISIONS, AND OTHER
APPLICATIONS, AND RESCINDING RESOLUTION NO. 93-587.

WHEREAS, Sections 10-2.1704, 10-2.2506, 10-2.2605, 10-2.2703 and 10-
2.2803 of the Modesto Municipal Code provide that the Council by resolution, shall
establish filing fees for each application filed pursuant to Chapter 2 of Title 10 of said
Code, and

WHEREAS, the current fee structure for conditional use permits does not
address the difference between residential and commercial or other, and

WHEREAS, City staff is recommending a new structure for conditional
use permits for residential use, and

WHEREAS, the Community Development and Housing Committee met
on March 20, 2002, and supported staff recommendation, and

WHEREAS, by an agenda report to the City Council from the City
Manager’s Office dated April 16, 2002, City staff recommended the changes as outlined
in the report, and

WHEREAS, said matter was set for a public hearing of the City Council to
be held at 5:15 p.m. on April 23, 2002, in the Tenth Street Place Chambers located at
1010 10th Street, Modesto, California, at which date and time said duly noticed public
hearing of the Council was held for the purpose of receiving public comment on the
proposed amended fees,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
Modesto that it hereby adopts the fee schedule as set forth on Exhibit "A" attached hereto
and incorporated hereby reference.

BE IT FURTHER RESOLVED that the criteria to exempt certain projects
from State Department of Fish and Game Filing Fees is set forth on Exhibit "B" attached
hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution No. 93-587 is hereby
rescinded effective May 14, 2002.
BE IT FURTHER RESOLVED that this resolution shall go into effect and be in full force and operation on and after May 15, 2002.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
EXHIBIT "A"

| (a) | P-D Zoning | $1,105.00 |
| (b) | Amend P-D Zone pursuant to Sec. 10-2.1709(b) | $1,105.00 |
| (c) | Amend P-D Zone pursuant to Sec. 10-2.1709(a) | $795.00 |
| (d) | Rezoning | $1,000.00 |
| (e) | Plot Plan Review  
  • For a satellite antenna for a single-family house | $135.00 |
  • For a second-story addition to a single-family house | $230.00 |
  • All other plot plan reviews | $550.00 |
| (f) | Conditional Use Permit  
  • Residential | $795.00 |
| (g) | Variance  
  • On a lot with a single family house in the R-A, R-1, R-2 or R-3 zone | $205.00 |
  • All others | $845.00 |
| (h) | Administrative Approval of Revised Plans | 20% of Application Fee |
| (i) | Letter of Verification - Zoning | $30.00 |
| (j) | Precise Plan | $1,590.00 |
| (k) | Development Agreement  
  • If done in conjunction with Precise Plan | $940.00 |
  • All others | $865.00 |
| (l) | Tentative Subdivision Map | $730.00 |
| (m) | Tentative Parcel Map | $660.00 |
| (n) | Reversion to Acreage | $555.00 |
| (o) | Parcel Map Waiver | $555.00 |
| (p) | Lot Line Adjustment | $140.00 |
| (q) | Time Extension | $125.00 |
Environmental Assessment

- Initial study
  1. City Processing Fee $485.00
  2. County Clerk-Recorder Administrative Fee $50.00
  3. State Department of Fish and Game Filing Fee $1,250.00

- Environmental Impact Report
  1. Reimbursement of Consultant Costs Actual Cost of Consultant Contract
  2. City Processing Costs Actual Staff Costs (initial deposit of $3000 required)
  3. State Department of Fish and Game Filing Fee $850.00

- Staff evaluation of special studies $475.00

Appeals

- Of Planning Commission of Board of Zoning Adjustment $100.00
- Of administrative decisions $100.00

Annexation

$540.00 plus State Board of Equalization Fee

Documents

- Planning Commission Minutes $30.00/year
- Planning Commission Agendas $46.00/year
- Board of Zoning Adjustment Minutes $20.00/year
- Board of Zoning Adjustment Agendas $20.00/year
- Other Reports and Documents, as Established by the Planning and Community Development Director from time to time

General Plan Amendment

Actual Cost $3000 Deposit
EXHIBIT "B"

Criteria for Exemption of
State Department of Fish and Game Filing Fees

The City of Modesto has determined that the following projects are exempt from payment of the State Department of Fish and Game Filing Fees:

1. Projects which enhance fish and wildlife, and their habitats and result in no accompanying adverse impacts to fish and wildlife.

2. Lot line adjustments.


4. Annexations.

5. Redevelopment on existing urban subdivisions with no wildlife habitat.

6. Infill of undeveloped urban lots which are within the current sewer service area and outside the current 100 year floodplain as defined by the Federal Emergency Management Agency (FEMA).
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-201

A RESOLUTION DECLARING FOUR (4) PARCELS AS EXCESS LAND TO CITY’S NEEDS AND AUTHORIZING THE CITY MANAGER TO TAKE ALL APPROPRIATE ACTIONS TO COMPLETE THE SALE OF SAID PARCELS.

WHEREAS, the City of Modesto currently owns four (4) parcels of land which are listed and depicted in “EXHIBIT A” which is attached hereto and made a part herein by this reference, and

WHEREAS, said parcels are excess to the City’s needs, and

WHEREAS, if the City retains these parcels, they will need to be maintained by the City at City expense, and

WHEREAS, the Community Development and Housing Committee reviewed and supported this recommendation at its meeting on April 15, 2002, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares that the four (4) parcels listed in “Exhibit A” are excess properties to the City’s needs.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to take appropriate actions and execute all required documents to complete the sale and transfer of said parcels to qualified buyers in accordance with the Government Code of the State of California.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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’Brien, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHN, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-202

A RESOLUTION AUTHORIZING THE CONTRACT WITH PMZ REAL ESTATE FOR PROFESSIONAL REAL ESTATE SERVICES TO MANAGE THE SALE OF FOUR (4) PARCELS WHICH HAVE BEEN DECLARED TO BE EXCESS LAND BY THE CITY.

WHEREAS, the City of Modesto currently owns four (4) parcels of land which are listed and depicted in “EXHIBIT A” which is attached hereto and made a part herein by this reference, and

WHEREAS, said parcels have been declared by the City Council of the City of Modesto to be excess to the City’s needs, and

WHEREAS, if the City retains these parcels, they will need to be maintained by the City, and

WHEREAS, City staff has solicited and received three (3) proposals from local real estate professionals to perform the necessary tasks to market and sell said parcels which tasks would include, but would not be limited to: appraising the parcels; listing and marketing the parcels for sale; negotiating with potential buyers, managing escrow accounts and providing required legal documents to complete the sales, and

WHEREAS, after reviewing said real estate proposals, City staff has recommended Richard Rand, PMZ Real Estate, as the most reasonable and lowest cost provider for said professional services, and

WHEREAS, the Community Development and Housing Committee reviewed and supported this recommendation at its meeting on April 15, 2002.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the contract with PMZ Real Estate to manage the appraisal, marketing and sale of said parcels by public bid.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of April, 2002, 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
PORTION SE 1/4 SECTION 19 T.3 S.R.9 E. M. D. B. & M.
COLLEGE GARDENS - BLKS. 916, 918

THIS MAP FOR ASSESSMENT PURPOSES ONLY