A RESOLUTION APPROVING AN AGREEMENT WITH HARRIS & ASSOCIATES FOR PROFESSIONAL SERVICES RELATED TO CONDUCTING PROPERTY OWNER BALLOT FOR A PROPOSED INCREASE TO THE STORM DRAINAGE SEWER SURCHARGE RATES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

WHEREAS, the City Manager authorized staff to hire Harris & Associates Inc. to develop procedures for the process for the completion, return and tabulation of Property Owner Ballots for the proposed increase to the Storm Drainage Sewer Surcharge Rates for the City, and

WHEREAS, the City Council adopted the procedures for the increase to the Storm Drainage Sewer Surcharge Rates by Resolution 2002-51 on February 5, 2002, and

WHEREAS, there is not sufficient City staff to assign to conduct the election for the Storm Drainage Sewer Surcharge Rate Increase, and

WHEREAS, Harris & Associates has unique experience and knowledge of conducting property owner balloting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Harris & Associates, Inc., related to the property owner ballot for the Storm Drainage Sewer Surcharge Rate Increase to include preparation of the ballot materials, mailing of the ballots, counting of the ballots, and presenting the results to the City Council for certification.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Smith

NOES: Councilmembers: Conrad, Serpa, Mayor Sabatino

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney

02/05/02/E&T/Jack Bond 2002-53
MODESTO CITY COUNCIL  
RESOLUTION NO. 2002-54

A RESOLUTION AMENDING THE BUDGET, APPROPRIATING $95,000 TO FULLY FUND THE MAILING OF A BALLOT FOR THE STORM DRAINAGE SEWER SURCHARGE RATE INCREASE, AND AUTHORIZING CITY STAFF TO MAIL THE BALLOTS.

WHEREAS, the Engineering and Transportation Department did not include in its budget, the cost for the mailing of a Ballot for the Storm Drainage Sewer Surcharge Rate Increase, and

WHEREAS, this was a result of not anticipating the need to increase the Storm Drainage Sewer Surcharge rates, and

WHEREAS, the cost of printing, sorting and mailing the ballots is estimated at $95,000,

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

FROM: 6280-800-8000-8003 $95,000.00
TO: 6280-440-5319-0235 $95,000.00

BE IT FURTHER RESOLVED that City staff is hereby authorized to mail ballots to the affected property owners after the public hearing on December 11, 2001, and to perform other election related tasks to accomplish the mailing of said ballots.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Smith

NOES: Councilmembers: Conrad, Serpa, Mayor Sabatino

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-55

A RESOLUTION FINDING THAT THE FOLLOWING PROJECTS ARE WITHIN THE SCOPE OF THE PROJECTS COVERED BY THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH 95122030) FOR THE EMPIRE NORTH UNIT 1 SPECIFIC PLAN 1) RESOLUTION OF APPLICATION TO STANISLAUS COUNTY LOCAL AGENCY FORMATION COMMISSION FOR A PROPOSED REORGANIZATION TO ANNEX 24.4 ACRES OF PROPERTY LOCATED ON THE SOUTH SIDE OF PARKER ROAD EAST OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD NORTH OF DRY CREEK WITHIN THE EMPIRE NORTH UNIT SPECIFIC PLAN AREA TO THE CITY OF MODESTO (MACHADO REORGANIZATION AREA); AND 2) ORDINANCE AMENDING A PORTION OF Sections 18-3-10 AND 19-3-10 OF THE ZONING MAP TO PREZONE TO SPECIFIC PLAN-OVERLAY ZONE, (SP-O), 24.4 ACRES OF PROPERTY LOCATED ON THE SOUTH SIDE OF PARKER ROAD, EAST OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD, NORTH OF DRY CREEK

WHEREAS, on January 7, 1997, by Resolution No. 97-5, the City Council of the City of Modesto certified the Final Focused Environmental Impact Report ("EIR") (SCH No. 95122030) for the Empire North Unit 1 Specific Plan, and

WHEREAS, John J. and Judy A. Machado have proposed that the zoning designation for the 24.4 acres of property located on the south side of Parker Road east of the Burlington Northern and Santa Fe Railroad north of Dry Creek, be amended to prezone to Specific Plan-Overlay, (SP-O), to allow the property to be annexed to the City of Modesto, and

WHEREAS, the City of Modesto proposes to adopt a Resolution of Application to the Stanislaus County Local Agency Formation Commission for a proposed reorganization to annex the 24.4 acre property located on the south side Parker Road, east of the Burlington Northern and Santa Fe Railroad north of Dry Creek, and

WHEREAS, the proposed prezoning designation and the Resolution of Application are hereafter collectively referred to as "the Projects", and

WHEREAS, Section 21158 of the Public Resources Code, relating to reviewing subsequent projects for a Focused EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community Development Department by Environmental Assessment Initial Study EA/CDD 2001-73 reviewed the Projects to determine whether the
Projects are within the scope of the projects covered by the Empire North Unit 1 Specific Plan Final focused EIR, and

WHEREAS, the Initial Study EA/CDD 2001-73 was considered by the City Council at a duly noticed public hearing which was held on February 5, 2002, at 5:15 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Projects, a copy of which 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 there are no substantial changes proposed in the projects which will require major revisions of the Empire North Unit 1 Specific Plan Final Focused EIR (SCH No. 95122030).

2. That there are no substantial changes occurring with respect to the circumstances under which the projects are being undertaken which will require major revisions in the Empire North Unit 1 Specific Plan Final Focused EIR.

3. That no new information, which was not known and could not have been known at the time the Empire North Unit 1 Specific Plan Final Focused EIR was certified as complete, has become available.

4. That the proposed project will have no new or significant effects on the environment that were not adequately identified and addressed in the Empire North Unit 1 Specific Plan Final Focused EIR.

5. That all feasible mitigation measures or feasible alternatives appropriate to the project, as set forth in the Empire North Unit 1 Specific Plan Final Focused EIR have been incorporated and that no new or additional mitigation measures or alternatives are required.

6. That the proposed Projects are within the scope of the projects covered by the Empire North Unit 1 Specific Plan Final Focused EIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on February 5, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Fisher, Friedman, Smith, Mayor Sabatino

Noes: Councilmembers: Frohman, Serpa

Absent: Councilmembers: Conrad

ATTEST: [Signature]

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

MICHAEL D. MILICH, City Attorney
Exhibit "A"

INITIAL STUDY
EA/CDD 2001-73
City of Modesto
Initial Study

Prezoning to SP-O, Specific Plan Overlay for the Empire North Unit 1 Specific Plan Area
and Annexation of the subject property (John & Judy Machado)

EAVCDD 2001-73
October 24, 2001

I. PURPOSE

On January 7, 1997, the Modesto City Council certified the Final Focused Environmental Impact
Report for the Empire North Unit 1 Specific Plan (SCH# 95122030). This Final Focused EIR
analyzed the impacts of build-out of the Empire North Unit 1 Specific Plan, which includes the
area in which this project is proposed.

Section 15182 of the CEQA Guidelines allows the Empire North Unit 1 Specific Plan Focused EIR
to be used for subsequent projects, if the following findings can be made:

A. No substantial changes are proposed in the project which will require major revisions of
the environmental impact report.

B. No substantial changes are occurring with respect to the circumstances under which the
project is being undertaken which will require major revisions in the environmental impact
report.

C. No new information, which was not known and could not have been known at the time
the environmental impact report was certified as complete, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings.

II. PROJECT DESCRIPTION

A. Project title:
Prezone to SP-O (Specific Plan Overlay)

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

C. Contact person and phone number:
Patrick Kelly, Community Development Department, (209) 577-5268

D. Project Location:
South side of Parker Road east of the Burlington Northern and Santa Fe Railroad tracks &
Santa Fe Railroad tracks.

E. Project Sponsor:
John and Judy Machado, 1500 J Street, Modesto, CA 95354
F. **General Plan Designation:**
   Village Residential (VR)

G. **Current Zoning:**
   The site has no zoning designation. The application is to prezone the property SP-O (Specific Plan – Overlay)

H. **Description of Proposed Project:**
   Annexation of the subject property totaling 24.4 acres and prezone the subject property to SP-O, as required by the Stanislaus LAFCO to the City of Modesto. The property is within the adopted Empire North Unit 1 Specific Plan area. The property is not commercially farmed, currently contains and existing rural residential home site.

I. **Surrounding land uses:**
   The project is adjoined on the north and east by rural ranchettes and agricultural uses, to the south by Dry Creek and it’s associated floodplain, and to the west by the Santa Fe Railroad, with single-family homes further west.

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

III. **ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS**

A. **No substantial changes are proposed in the project which will require major revisions of the environmental impact report**

   Following is an analysis of how there are no substantial changes proposed in the project which would require major revisions of the Empire North Unit 1 Specific Plan Final Focused EIR:

1. **Traffic and Circulation**
   Impacts to traffic and circulation are discussed on pages 3-1 through 3-11 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the traffic analysis contained within the Focused EIR. Therefore, there would be no change to the traffic and circulation impacts analyzed in this section of the EIR. Thus, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR are, therefore, still valid.

2. **Generation of Noise**
   Noise impacts are analyzed on pages 3-11 through 3-18 of the Empire North Unit 1 Specific Plan Focused EIR. Prezoning and annexation and the subsequent
development of residential uses, because they are uses consistent with the Empire North Unit 1 Specific Plan, will not affect an increase in projected noise generation for this area. The prezoning and annexation would result in no new land uses that are not anticipated by the Focused EIR. Thus, Existing Conditions, Impacts analysis and Mitigation Measures listed in the Focused EIR for Generation of Noise are, therefore, still valid.

3. **Loss of Sensitive Plant and Wildlife Habitat**

Impacts to sensitive plant and wildlife habitat are analyzed on pages 3-18 through 3-25 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated in the Loss of Sensitive Plant and Wildlife Habitat Section contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR for Loss of Sensitive Plant and Wildlife Habitat are, therefore, still valid.

4. **Disturbance of Archaeological or Historical Sites**

Disturbance of archaeological or historical sites is analyzed on pages 3-25 through 3-32 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the Disturbance of Archaeological or Historical Sites analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR for Increased Demand for Disturbance of Archaeological or Historical Sites are, therefore, still valid.

5. **Drainage, Flooding and Water Quality**

Drainage, flooding and water quality are analyzed on pages 3-32 through 3-35 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the Drainage, Flooding and Water Quality analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR for Increased Demand for Drainage, Flooding and Water Quality are, therefore, still valid.

6. **Increased Demand for Parks and Open Space**

Increased demand for parks and open space is analyzed on pages 3-35 through 3-39 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the Demand for Parks and Open Space Analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts analysis and Mitigation Measures listed in the
Focused EIR for Increased Demand for Parks and Open Space are, therefore, still valid.

7. **Public Safety**

Impacts to public safety are analyzed on pages 3-40 through 3-44 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by Public Safety analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures for Public Safety listed in the Focused EIR are, therefore, still valid.

8. **Increased Demand for Schools**

Increased demand for schools is analyzed on pages 3-45 through 3-48 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by Public Safety analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures for Increased Demand for Schools listed in the Focused EIR are, therefore, still valid.

B. **No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report**

The Empire North Unit 1 Specific Plan Focused EIR was certified by the Modesto City Council on January 7, 1997. In the period since then, there have been no significant changes to the surrounding area that were not already anticipated and analyzed by the Empire North Unit 1 Specific Plan Focused EIR. The only development occurring near this area is in the Village One Specific Plan, and that development was anticipated and analyzed in the Empire North EIR. Therefore, there has been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Empire North Unit 1 Specific Plan Focused EIR.

C. **No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available**

The Empire North Unit 1 Specific Plan Focused EIR was certified by the Modesto City Council on January 7, 1997. Since then, there is no new information, which was not known at the time the Empire North Unit 1 Specific Plan Focused EIR was certified, has become available, that would change the conclusions of the EIR.
IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. There are no substantial changes proposed in the project which will require major revisions of the Empire North Unit 1 Specific Plan Focused EIR.

B. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Empire North Unit 1 Specific Plan Focused EIR.

C. No new information, which was not known and could not have been known at the time the Empire North Unit 1 Specific Plan Focused EIR was certified as complete, has become available.

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

Patrick Kelly, AICP
Principal Planner

Date 10.24.01
A RESOLUTION OF APPLICATION BY THE COUNCIL OF THE CITY OF MODESTO TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX 24.4 ACRES OF PROPERTY WITHIN THE EMPIRE NORTH UNIT ONE SPECIFIC PLAN AREA TO THE CITY OF MODESTO, PROPERTY LOCATED ON THE SOUTH SIDE OF PARKER ROAD, EAST OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD, NORTH OF DRY CREEK (COUNCIL INITIATED – UNINHABITED).

WHEREAS, the City has received a written request from the sole property owner, Mr. John J. Machado and Mrs. Judy A. Machado, to initiate annexation of their parcel to the City of Modesto, said parcel is approximately 24.4 acres within the Empire North Unit One Specific Plan, located on the south side of Parker Road east of the Burlington Northern and Santa Fe Railroad north of Dry Creek (the “Property”), and

WHEREAS, the Council of the City of Modesto desires to initiate proceedings pursuant to the Cortese-Knox Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, for the annexation of the Property to the City of Modesto, and

WHEREAS, this Resolution of Application by the City Council is proposed pursuant California Government Code Section 56654 and Section 56700, and

WHEREAS, notice of intent to adopt this resolution of application has been given to the following interested and subject agencies: Stanislaus County, Modesto City School District, Modesto Irrigation District, Modesto High School District, and Stanislaus Consolidated Fire Protection District, and

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

WHEREAS, said territory consists of 24.4 acres, as set forth on Exhibit “B”, attached hereto and by this reference incorporated herein, and

WHEREAS, this subject property is part of the Empire North Unit One Specific Plan Area which received a Measure “M” Citizens Advisory vote on November 3, 1998, which was positive by a vote of 22,402 to 17,819, certified by Council Resolution No. 98-647 adopted on December 8, 1998, and

WHEREAS, the subject territory proposed to be annexed is within the current Sphere of Influence of the City of Modesto, as adopted on December 19, 1994, and
WHEREAS, there are no Williamson Act contracts within the proposed annexation area, and

WHEREAS, prior to an annexation application being allowed to be heard by LAFCO, there must first be an agreement with the County providing for the sharing of property taxes following an annexation, and

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

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

(a) The annexation of said territory, as set forth on Exhibit “A” attached hereto, to the City of Modesto.

(b) The detachment of said territory from the Stanislaus Consolidated Fire District.

(c) The annexation of said territory to the Modesto Municipal Sewer District No. 1, and

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

(a) Staff has received a written request signed by the property owners, Mr. John J. and Mrs. Judy A. Machado, to annex their parcel to the City of Modesto.

(b) The proposed annexation is consistent with the Urban Area General Plan and the Empire North Unit One Specific Plan Area and can be served by City services.

(c) The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services, and

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

WHEREAS, the Community Development Department Director shall be the chief petitioner to submit an application to the Stanislaus County LAFCO requesting annexation of the property described in City of Modesto Ordinance No. _____ - C.S, attached hereto, pursuant to California Government Code Section 56700, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council to be held on February 5, 2002, at 5:15 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and the City Clerk gave notice as required by law,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, as follows:
1. That future development of this site shall be consistent with the Modesto Urban Area General Plan adopted by the Council of the City of Modesto on August 15, 1995, and the Empire North Unit One Specific Plan adopted by the Council of the City of Modesto on January 7, 1997, and

2. That all owners of land within the affected territory have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City consents to LAFCO waiving the protest hearing.

3. That this Resolution of Application is hereby adopted and approved and Stanislaus County LAFCO is hereby requested to initiate proceedings for the reorganization of the territory described in Exhibit “A”, attached hereto, according to the terms and conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg Local Reorganization Act of 2000.

4. That the Resolution of Application is consistent with the City of Modesto Urban Area General Plan, adopted by the Modesto City Council by Resolution No. 95-409 on August 15, 1995.

5. That the proposed Reorganization is covered by the City’s General Plan Master Environmental Impact Report (EIR) (SCH#9205217), and the Final Focused EIR for the Empire North Unit One Specific Plan, and has received CEQA environmental review through an Initial Study, leading to a Finding of Conformance with the Empire North Unit One Specific Plan Focused EIR (SCH # 95122030).

BE IT FURTHER RESOLVED by the Council that pursuant to Government Code Section 56756, the City Clerk of the City of Modesto is hereby directed to file a certified copy of this resolution with the Executive Officer of LAFCO, and that pursuant to Government Code Section 56700, the Council hereby requests that LAFCO proceed with the reorganization of 24.4 acres of property within the Empire North Unit One Specific Plan to the City of Modesto, property located on the south side of Parker Road east of the Burlington Northern and Santa Fe Railroad north of Dry Creek.
The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on February 5, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Fisher, Friedman, Smith, Mayor Sabatino

Noes: Councilmembers: Frohman, Serpa

Absent: Councilmembers: Conrad

ATTEST: 

JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
Exhibit "A"

WRITTEN DESCRIPTION
EXHIBIT "A"
MACHADO
REORGANIZATION TO THE CITY OF MODESTO

A portion of the Northeast Quarter of Section 19 and a portion of the Southeast Quarter of Section 18, Township 3 South, Range 10 East, Mount Diablo Meridian, situate in the County of Stanislaus, State of California, more particularly described as follows:

BEGINNING a the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 19 and having coordinate values of Northing = 2065609.177 and Easting = 6443748.769; thence 1) North 00°03'48" East, a distance of 20.00 feet to the North right-of-way line of Parker Road; thence 2) North 89°28'02" East along last said line, a distance of 26.67 feet to the West right-of-way line of Dewitt Road; thence 3) North 00°34'58" West along last said West right-of-way line, a distance of 30.00 feet to a point on the Westerly extension of the North right-of-way of said Parker Road; thence 4) North 89°28'02" East along last said extension and the North right-of-way line of Parker Road, a distance of 961.92 feet to an angle point in last said right-of-way line; thence 5) North 79°26'18" East along last said right-of-way line, a distance of 108.67 feet; thence 6) South 10°33'42" East, a distance of 70.00 feet to a point on the dividing line between said Sections 18 and 19; thence 7) North 89°28'02" East along the North line of said Section 19, a distance of 206.81 feet to the Northeast corner of said Section 19; thence 8) South 00°01'19" East along the East line of said Section 19, a distance of 70.00 feet to the center line of Dry Creek as shown on the Map filed in Volume 14 of Surveys at Page 31, Stanislaus County Records; thence along the center line of said Dry Creek the following fifteen (15) courses as shown on said map beginning with course No. 9: 9) South 80°35'57" West, 240.68 feet 10) South 62°49'11" West, 709.58 feet 11) South 36°33'36" West, 202.55 feet 12) South 16°32'49" West, 109.04 feet 13) South 13°10'31" East, 59.42 feet 14) South 29°29'42" East, 93.57 feet 15) South 49°50'31" East, 244.88 feet 16) South 07°51'10" East, 180.89 feet 17) South 24°16'01" West, 154.32 feet 18) South 00°07'42" West, 188.41 feet 19) South 32°20'37" West, 115.92 feet 20) South 44°05'38" West, 97.56 feet 21) South 44°31'25" West, 200.15 feet 22) South 42°43'28" West, 233.18 feet 23) South 49°32'44" West, 99.68 feet to a point on the West line of the East half of the Northeast Quarter of said Section 19; thence leaving said center line of Dry Creek and proceeding 24) North 00°03'48" East along last said West line, a distance of 2040.63 feet to the POINT OF BEGINNING.

Containing 24.4 acres more or less.

This property description has been prepared by me, or under my direction in conformance with the Professional Land Surveyor's Act. The bearings, distances and coordinates are based on the California coordinate system, CCS83, Zone 3.
Exhibit "B"

ANNEXATION PROPOSAL MAP
Exhibit "C"

PLAN FOR SERVICE
Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Machado Reorganization:

A. The project site is part of the Empire North Unit 1 Specific Plan adopted January 7, 1997 (City Council Resolution No. 97-4). As a requirement for approval, community facilities and services were analyzed in detail by the Empire North Unit 1 Specific Plan Final Focused EIR (SCH# 95122030). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, energy, schools, parks, fire, police and other governmental services. The City of Modesto is a full-service municipal city and would provide the following services:

1. **Fire Protection** – Upon reorganization, the properties will be withdrawn from the Stanislaus Consolidated Fire Protection District and fire protection services will be provided by the Modesto Fire Department. Primary response will come from Station No. 9 located at 4025 Fara Biundo Drive.

2. **Police Protection** – Modesto City Police would assume responsibility for police protection upon effective date of annexation.

3. **Garbage and Garden Refuse Pickup** – Weekly pickup would be extended to the area upon effective date of annexation.

4. **Sanitary Sewer Service** – Sewer service can be provided to the annexation area from existing lines in the subdivision immediately west of the subject site. Service would be extended upon development of the area at no cost to the City, as existing City fees and property owner financing will be sufficient to cover the cost.

5. **Water Service** – Service would be provided by the City of Modesto upon annexation. Based on the City’s 2000 Urban Water Management Plan, there are adequate and projected water supplies to serve the proposal. City water is available via a 12” line existing in Parker Road. This line would provide treated water and adequate fire flows to serve the subject property. City water well No. 45 has a capacity of 1,100 GPM and can adequately serve the future development of the property.

6. **Streets** – Parker Road already exists along the site frontage. This street as well as future public streets will be the responsibility of the City.

B. **The level and range of services:**
The City of Modesto is a full service provider of municipal services and would provide the full range of services for those areas listed above.

C. **When can the services be provided?**
The above-described services can be provided upon the effective date of annexation.
Exhibit "C" Plan for Services
Machado Reorganization

D. **Improvements required as condition of reorganization.**
   No improvements will be required as a condition of reorganization. Connection to the City of Modesto sewer system will be required five years from when sewer is available per Modesto Municipal Code Section 5-6.18. Improvements would be required as a condition of development.

E. **How will services be financed?**
   Services will be financed through a combination of City fees and Enterprise Fund.
A RESOLUTION FINDING THAT THE FOLLOWING PROJECTS ARE WITHIN THE SCOPE OF THE PROJECTS COVERED BY THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH 95122030) FOR THE EMPIRE NORTH UNIT 1 SPECIFIC PLAN 1) RESOLUTION OF APPLICATION TO STANISLAUS COUNTY LOCAL AGENCY FORMATION COMMISSION FOR A PROPOSED REORGANIZATION TO ANNEX 24.4 ACRES OF PROPERTY LOCATED ON THE SOUTH SIDE OF PARKER ROAD EAST OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD NORTH OF DRY CREEK WITHIN THE EMPIRE NORTH UNIT SPECIFIC PLAN AREA TO THE CITY OF MODESTO (MACHADO REORGANIZATION AREA); AND 2) ORDINANCE AMENDING A PORTION OF SECTIONS 18-3-10 AND 19-3-10 OF THE ZONING MAP TO PREZONE TO SPECIFIC PLAN-OVERLAY ZONE, (SP-O), 24.4 ACRES OF PROPERTY LOCATED ON THE SOUTH SIDE OF PARKER ROAD, EAST OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD, NORTH OF DRY CREEK

WHEREAS, on January 7, 1997, by Resolution No. 97-5, the City Council of the City of Modesto certified the Final Focused Environmental Impact Report ("EIR") (SCH No. 95122030) for the Empire North Unit 1 Specific Plan, and

WHEREAS, John J. and Judy A. Machado have proposed that the zoning designation for the 24.4 acres of property located on the south side of Parker Road east of the Burlington Northern and Santa Fe Railroad north of Dry Creek, be amended to prezone to Specific Plan-Overlay, (SP-O), to allow the property to be annexed to the City of Modesto, and

WHEREAS, the City of Modesto proposes to adopt a Resolution of Application to the Stanislaus County Local Agency Formation Commission for a proposed reorganization to annex the 24.4 acre property located on the south side Parker Road, east of the Burlington Northern and Santa Fe Railroad north of Dry Creek, and

WHEREAS, the proposed prezoning designation and the Resolution of Application are hereafter collectively referred to as “the Projects”, and

WHEREAS, Section 21158 of the Public Resources Code, relating to reviewing subsequent projects for a Focused EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community Development Department by Environmental Assessment Initial Study EA/CDD 2001-73 reviewed the Projects to determine whether the
Projects are within the scope of the projects covered by the Empire North Unit 1 Specific Plan Final focused EIR, and

WHEREAS, the Initial Study EA/CDD 2001-73 was considered by the City Council at a duly noticed public hearing which was held on February 5, 2002, at 5:15 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Projects, a copy of which 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 there are no substantial changes proposed in the projects which will require major revisions of the Empire North Unit 1 Specific Plan Final Focused EIR (SCH No. 95122030).

2. That there are no substantial changes occurring with respect to the circumstances under which the projects are being undertaken which will require major revisions in the Empire North Unit 1 Specific Plan Final Focused EIR.

3. That no new information, which was not known and could not have been known at the time the Empire North Unit 1 Specific Plan Final Focused EIR was certified as complete, has become available.

4. That the proposed project will have no new or significant effects on the environment that were not adequately identified and addressed in the Empire North Unit 1 Specific Plan Final Focused EIR.

5. That all feasible mitigation measures or feasible alternatives appropriate to the project, as set forth in the Empire North Unit 1 Specific Plan Final Focused EIR have been incorporated and that no new or additional mitigation measures or alternatives are required.

6. That the proposed Projects are within the scope of the projects covered by the Empire North Unit 1 Specific Plan Final Focused EIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on February 5, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Fisher, Friedman, Smith, Mayor Sabatino

Noes: Councilmembers: Frohman, Serpa

Absent: Councilmembers: Conrad

ATTEST: ____________________________

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

MICHAEL D. MILICH, City Attorney
Exhibit "A"

INITIAL STUDY
EA/CDD 2001-73
City of Modesto
Initial Study

Prezoning to SP-O, Specific Plan Overlay for the Empire North Unit 1 Specific Plan Area and Annexation of the subject property (John & Judy Machado)

EA/CDD 2001-73
October 24, 2001

I. PURPOSE

On January 7, 1997, the Modesto City Council certified the Final Focused Environmental Impact Report for the Empire North Unit 1 Specific Plan (SCH# 95122030). This Final Focused EIR analyzed the impacts of build-out of the Empire North Unit 1 Specific Plan, which includes the area in which this project is proposed.

Section 15182 of the CEQA Guidelines allows the Empire North Unit 1 Specific Plan Focused EIR to be used for subsequent projects, if the following findings can be made:

A. No substantial changes are proposed in the project which will require major revisions of the environmental impact report.
B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The purpose of this Initial Study is to provide the substantial evidence for the above findings.

II. PROJECT DESCRIPTION

A. Project title:
   Prezone to SP-O (Specific Plan Overlay)
B. Lead agency name and address:
   City of Modesto, PO Box 642, Modesto, CA 95353
C. Contact person and phone number:
   Patrick Kelly, Community Development Department, (209) 577-5268
D. Project Location:
   South side of Parker Road east of the Burlington Northern and Santa Fe Railroad tracks & Santa Fe Railroad tracks.
E. Project Sponsor:
   John and Judy Machado, 1500 J Street, Modesto, CA 95354
F. **General Plan Designation:**
   Village Residential (VR)

G. **Current Zoning:**
   The site has no zoning designation. The application is to prezone the property SP-O (Specific Plan – Overlay)

H. **Description of Proposed Project:**
   Annexation of the subject property totaling 24.4 acres and prezone the subject property to SP-O, as required by the Stanislaus LAFCO to the City of Modesto. The property is within the adopted Empire North Unit 1 Specific Plan area. The property is not commercially farmed, currently contains and existing rural residential home site.

I. **Surrounding land uses:**
   The project is adjoined on the north and east by rural ranchettes and agricultural uses, to the south by Dry Creek and its associated floodplain, and to the west by the Santa Fe Railroad, with single-family homes further west.

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

III. **ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS**

A. **No substantial changes are proposed in the project which will require major revisions of the environmental impact report**

   Following is an analysis of how there are no substantial changes proposed in the project which would require major revisions of the Empire North Unit 1 Specific Plan Final Focused EIR:

1. **Traffic and Circulation**

   Impacts to traffic and circulation are discussed on pages 3-1 through 3-11 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the traffic analysis contained within the Focused EIR. Therefore, there would be no change to the traffic and circulation impacts analyzed in this section of the EIR. Thus, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR are, therefore, still valid.

2. **Generation of Noise**

   Noise impacts are analyzed on pages 3-11 through 3-18 of the Empire North Unit 1 Specific Plan Focused EIR. Prezoning and annexation and the subsequent
development of residential uses, because they are uses consistent with the Empire North Unit 1 Specific Plan, will not affect an increase in projected noise generation for this area. The prezoning and annexation would result in no new land uses that are not anticipated by the Focused EIR. Thus, Existing Conditions, Impacts analysis and Mitigation Measures listed in the Focused EIR for Generation of Noise are, therefore, still valid.

3. **Loss of Sensitive Plant and Wildlife Habitat**

Impacts to sensitive plant and wildlife habitat are analyzed on pages 3-18 through 3-25 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated in the Loss of Sensitive Plant and Wildlife Habitat Section contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR for Loss of Sensitive Plant and Wildlife Habitat are, therefore, still valid.

4. **Disturbance of Archaeological or Historical Sites**

Disturbance of archaeological or historical sites is analyzed on pages 3-25 through 3-32 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the Disturbance of Archaeological or Historical Sites analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR for Increased Demand for Disturbance of Archaeological or Historical Sites are, therefore, still valid.

5. **Drainage, Flooding and Water Quality**

Drainage, flooding and water quality are analyzed on pages 3-32 through 3-35 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the Drainage, Flooding and Water Quality analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures listed in the Focused EIR for Increased Demand for Drainage, Flooding and Water Quality are, therefore, still valid.

6. **Increased Demand for Parks and Open Space**

Increased demand for parks and open space is analyzed on pages 3-35 through 3-39 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by the Demand for Parks and Open Space Analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts analysis and Mitigation Measures listed in the
Focused EIR for Increased Demand for Parks and Open Space are, therefore, still valid.

7. Public Safety

Impacts to public safety are analyzed on pages 3-40 through 3-44 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by Public Safety analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures for Public Safety listed in the Focused EIR are, therefore, still valid.

8. Increased Demand for Schools

Increased demand for schools is analyzed on pages 3-45 through 3-48 of the Empire North Unit 1 Specific Plan Focused EIR. The prezoning and annexation would result in no new land uses that are not anticipated by Public Safety analysis contained within the Focused EIR. Thus, Existing Conditions, Impacts Analysis and Mitigation Measures for Increased Demand for Schools listed in the Focused EIR are, therefore, still valid.

B. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report

The Empire North Unit 1 Specific Plan Focused EIR was certified by the Modesto City Council on January 7, 1997. In the period since then, there have been no significant changes to the surrounding area that were not already anticipated and analyzed by the Empire North Unit 1 Specific Plan Focused EIR. The only development occurring near this area is in the Village One Specific Plan, and that development was anticipated and analyzed in the Empire North EIR. Therefore, there has been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Empire North Unit 1 Specific Plan Focused EIR.

C. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available

The Empire North Unit 1 Specific Plan Focused EIR was certified by the Modesto City Council on January 7, 1997. Since then, there is no new information, which was not known at the time the Empire North Unit 1 Specific Plan Focused EIR was certified, has become available, that would change the conclusions of the EIR.
IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. There are no substantial changes proposed in the project which will require major revisions of the Empire North Unit 1 Specific Plan Focused EIR.

B. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Empire North Unit 1 Specific Plan Focused EIR.

C. No new information, which was not known and could not have been known at the time the Empire North Unit 1 Specific Plan Focused EIR was certified as complete, has become available.

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

Patrick Kelly, AICP
Principal Planner

10-24-01
Date
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-58

A RESOLUTION AUTHORIZING THE CITY MANAGER OR DEPUTY CITY MANAGER TO SUBMIT APPLICATIONS AND GRANT RELATED DOCUMENTS FOR ALL GRANTS AVAILABLE FROM THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD AND RECIDING RESOLUTION NO. 98-287.

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste programs throughout the state, and

WHEREAS, the California Integrated Waste Management Board has the responsibility for the administration of the solid waste programs within the state and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, the California Integrated Waste Management Board allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager or Deputy City Manager are hereby authorized to execute and submit applications and grant related documents for all solid waste related grants available through the State of California.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that this resolution shall remain in full force and effect until rescinded by the City Council.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 98-287 is hereby rescinded.

RESCINDED

12-14-2004

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2004-167

02/12/02/E&T/B McCullough

2002-58
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12\textsuperscript{th} day of February 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

\textbf{AYES:} Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

\textbf{NOES:} Councilmembers: None

\textbf{ABSENT:} Councilmembers: None

\textbf{ATTEST:} \textit{Jean Zahr}, City Clerk

\textbf{(SEAL)}

\textbf{APPROVED AS TO FORM:}

By \textit{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-59

A RESOLUTION AUTHORIZING THE CITY MANAGER OR DEPUTY CITY MANAGER TO SUBMIT APPLICATIONS AND GRANT RELATED DOCUMENTS FOR ALL GRANTS AVAILABLE FROM THE CALIFORNIA DEPARTMENT OF CONSERVATION

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste programs throughout the state, and

WHEREAS, the California Department of Conservation has the responsibility for the administration of beverage container recycling programs within the state and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, California Department of Conservation allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager or Deputy City Manager are hereby authorized to execute and submit applications and grant related documents for all beverage container recycling grants available through the State of California.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that this resolution shall remain in full force and effect until rescinded by the City Council.

RESCINDED

12-14-2004

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2004-6039A
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 Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

02/12/02/E&T/B McCullough 2 2002-59
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RICHARD ALMANZA FROM THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE AND THE ECONOMIC DEVELOPMENT LOAN COMMITTEE

WHEREAS, Richard Almanza was appointed a member of the Citizens Housing & Community Development Committee on January 2, 1996 and the Economic Development Loan Committee on February 2, 2000; and

WHEREAS, Richard Almanza has tendered his resignation from the aforementioned committees, effective January 24, 2002; and

WHEREAS, Richard Almanza 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 Richard Almanza from the Citizens Housing & Community Development Committee and the Economic Development Loan Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to Richard Almanza 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 12th day of February, 2002 by Councilmember Friedman, 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, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

WHEREAS, RANDY CLARK was appointed a member of the Community Qualities Forum on July 21, 1998; and

WHEREAS, RANDY CLARK has tendered his resignation from the Community Qualities Forum, effective February 12, 2002; and

WHEREAS, RANDY CLARK 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 RANDY CLARK 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 RANDY CLARK 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 12th day of February, 2002, by Councilmember Friedman, 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, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JENN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-62

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JUDY KENYON FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE FEBRUARY 12, 2002

WHEREAS, JUDY KENYON was appointed a member of the Community Qualities Forum on January 23, 1996; and
WHEREAS, JUDY KENYON has tendered his resignation from the Community Qualities Forum, effective February 12, 2002; and
WHEREAS, JUDY KENYON 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 JUDY KENYON 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 JUDY KENYON 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 12th day of February, 2002, by Councilmember Friedman, 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, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  
JEAN ZAHR  City Clerk
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LEE STURGILL FROM THE COMMUNITY QUALITIES FORUM, EFFECTIVE FEBRUARY 12, 2002

WHEREAS, LEE STURGILL was appointed a member of the Community Qualities Forum on October 17, 2000; and
WHEREAS, LEE STURGILL has tendered his resignation from the Community Qualities Forum, effective February 12, 2002; and
WHEREAS, LEE STURGILL 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 LEE STURGILL 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 LEE STURGILL 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 12th day of February, 2002, by Councilmember Friedman, 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, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________________________
               JEAN ZAHR
               City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-64

A RESOLUTION SUPPORTING THE PASSAGE OF PROPOSITION 42, THE TRANSPORTATION CONGESTION IMPROVEMENT ACT, IN THE MARCH 2002 ELECTIONS

WHEREAS, Proposition 42, the Transportation Congestion Improvement Act, has qualified for the March 5, 2002, statewide ballot and

WHEREAS, on August 14, 2001, the Modesto City Council adopted Resolution 2001-432, the 2001 Legislative Platform, and

WHEREAS, Proposition 42 supports the City of Modesto’s 2001 Legislative Platform Action 8.1.b “Support legislation that provides that revenue collected from sales taxes on gasoline is used solely for the purpose of operating and maintaining the street and highways network throughout the state,” and

WHEREAS, on October 23, 2001, the Modesto City Council adopted the 2001-2004 Strategic Plan, and

WHEREAS, Proposition 42 supports Strategic Plan Item III.B.2 “Address transportation funding issues,” and

WHEREAS, on January 17, 2002, the City of Modesto’s Transportation Policy Committee requested that City Council hear staff recommendations in support of Proposition 42.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby supports Proposition 42, the Transportation Congestion Improvement Act, 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 12th day of February 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

2/12/02/CMO /Bhatcher 2002-64
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-65

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENTS BUDGET TO RECOGNIZE ADDITIONAL REVENUE FROM THE SEWER FUND RESERVE TO FUND A CLAIM SETTLEMENT FILED BY RUTHERFORD AND SMITH CONSTRUCTION, INC. FOR CONSTRUCTION OF THE “RANCH CANNERY PUMP STATION AND FORCEMAIN” PROJECT.

WHEREAS, on August 25, 1998, the City Council awarded a $3,428,570.00 contract to Rutherford and Smith Construction, Inc. for the project entitled “Construction of Ranch Cannery Pump Station and Forcemain”, and

WHEREAS, the Contractor filed an epoxy coating claim in the amount of $46,935.51 for additional construction costs related to the installation of the epoxy coating in the mixing box and pump station wet well structures, and

WHEREAS, on September 5, 2000, City Council accepted the improvements entitled “Construction of Ranch Cannery Pump Station and Forcemain”, and

WHEREAS, the Contractor filed for claim resolution through binding arbitration, and

WHEREAS, City Council approved the claim settlement in closed session,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes an amendment to the current capital improvement budget for the “Ranch Cannery Pump Station and Forcemain” project, account number 621-440-K731, to increase the amount of revenue in the amount of $46,400 transferred from Sewer Fund Reserves, account number 6210-800-8000-8003, to increase the budgeted amount for construction by $46,400.
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 Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAH, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AWARDBING THE BID FOR TWELVE (12) MODEL 170E CONTROLLER ASSEMBLIES WITH 332 CABINET TO TRAFFIC SAFETY SUPPLY INC., OF DUBLIN, CALIFORNIA IN THE AMOUNT OF $69,192.45

WHEREAS, the Engineering and Transportation Department has requested the purchase of twelve (12) Model 170E Controller Assemblies with 332 Cabinet to be used for traffic signal installation, and

WHEREAS, Resolution 2001-602 authorized the solicitation of bids for twelve (12) 170E Controller Assemblies with 332 Cabinets, and

WHEREAS, the Engineering and Transportation Department is responsible for maintaining and installing new traffic signal equipment at Standiford/Shawnee and for traffic signal modifications at K-Street and 9th, and

WHEREAS, out of eight (8) vendors solicited, six (6) chose to respond to the Request for Bids, and

WHEREAS, Traffic Safety Supply Inc. of Dublin, California, was determined to be the lowest responsive and responsible bidder, with a bid amount of $69,192.45,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby awards the bid for twelve (12) Model 170E Controller Assemblies with 332 Cabinets to Traffic Safety Supply Inc. of Dublin, California in the approximate amount of $69,192.45.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to Traffic Safety Supply Inc., for the equipment.

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 Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-67

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO SOLICIT A REQUEST FOR BIDS FOR FUEL CARD LOCK SERVICES, BULK FUEL AND LUBRICANTS

WHEREAS, the Fleet Services Division of the Operations and Maintenance Department - Water Division has requested the purchase of fuel card lock services, bulk fuel and lubricants, and

WHEREAS, the existing fuel card lock services, bulk fuel and lubricants contract has expired, and

WHEREAS, the term on any agreement reached as part of this process will be for three (3) years, with the City reserving the right to extend the agreement for up to two (2) additional years, and

WHEREAS, by soliciting formal bids for fuel card lock services, bulk fuel and lubricants, the Finance Department - Purchasing Division will comply with Modesto Municipal Code Section 8-3.204 formal bid procedures, thereby obtaining the best value for the City,

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for fuel card lock services, bulk fuel and lubricants to be opened in the office of the City Clerk, 1010 10th Street, in the City of Modesto. The City Clerk is hereby 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 at its next regular meeting.
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 Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-68

A RESOLUTION CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING
THE LEVY OF THE SPECIAL TAX TO THE QUALIFIED ELECTORS OF THE
TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES
DISTRICT NO. 2000-2 (COFFEE-CLARATINA, ANNEXATION #1)

WHEREAS, this Council did, on January 8, 2002, adopt its Resolution No. 2002-24 (the
"Resolution of Intention to Annex") to indicate its intention to annex certain territory (the
"Annexed Territory") to its Community Facilities District No. 2000-2 (the "District") in order to
finance certain services (the "Services") and to authorize the levy of a special tax (the "Special
Tax") within the Annexed Territory, pursuant to Chapter 3.5 of Part 1 of Division 2 of Title 5
(commencing with Section 53311) of the California Government Code, commonly known as the
"Mello-Roos Community Facilities Act of 1982" (the "Act"), and

WHEREAS, a copy of the Resolution of Intention to Annex, describing the territory
proposed to be annexed, the list of the Services to be financed by the Annexed Territory, and the
Special Tax to be levied in the Annexed Territory, and setting the hearing thereon, is on file with
the City Clerk and is incorporated herein by this reference, and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced
by the proof of publication on file with the City Clerk, and

WHEREAS, on February 12, 2002, this Council held the hearing as required by law
related to the proposed annexation of territory and the levy of the Special Tax within the
Annexed Territory and all other matters set forth in the Resolution of Intention to Annex, and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the
proposed annexation of territory and the levy of the Special Tax therein and all other matters set
forth in the Resolution of Intention to Annex, including all interested persons or taxpayers for or
against the proposed annexation of territory and the levy of the Special Tax therein were heard and considered, and a full and fair hearing was held thereon, and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council at the conclusion of the hearing was fully advised as to all matters related to the proposed annexation and the levy of the Special Tax therein and all other matters set forth in the Resolution of Intention to Annex, and

WHEREAS, written protests against the proposed annexation and the levy of the Special Tax therein have not been filed with the City Clerk by fifty percent or more of the registered voters, or six registered voters, whichever is more, residing within either the District or the Annexed Territory proposed to be annexed to the District, or the owners of one-half or more of the area of land in either the territory in the District or the Annexed Territory and not exempt from the Special Tax, and

WHEREAS, the City Clerk has concurred in the election date herein set forth for the election herein called,

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

1. SECTION. The foregoing recitals are true and correct.

2 SECTION. All prior proceedings taken with respect to the annexation of territory to the District and the levy of the Special Tax therein, were valid and in conformity with the requirements of the Act. This determination shall be final and conclusive upon all persons.

3 SECTION. The proposed annexation of territory and the levy of the Special Tax therein have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

4 SECTION. (a) The Services to be financed by the Annexed Territory are set forth in EXHIBIT A attached hereto and incorporated by this reference, including expenses incidental
thereto as authorized by Section 53313 of the Act. The Services are governmental services
which the City is authorized by law to provide to the extent that they are in addition to those
provided in the Annexed Territory before the territory was annexed to the District.

(b) The Services are necessary to meet the increased demands placed
upon the City and other local agencies operating within the area of the Annexed Territory as a
result of development occurring in the Annexed Territory.

(c) No land within the Annexed Territory is devoted primarily to
agricultural, timber or livestock uses or being used for the commercial production of agricultural,
timber or livestock products.

5 SECTION. The Public Report related to the Services shall be a part of the record in
these proceedings.

6 SECTION. (a) As stated in the Resolution of Intention to Annex, it is the intention
of this Council, subject to the approval of the qualified electors of the Annexed Territory, to
annex territory to the District and levy a Special Tax within the Annexed Territory. Specifically,
on such approval the Council shall levy the Special Tax upon the Annexed Territory.

(b) The rate, method of apportionment, and manner of collection of the
special tax, in sufficient detail to allow each landowner or resident within the Annexed Territory
to estimate the maximum amount that he or she will have to pay, is described in EXHIBIT “A”
ereto and by this reference incorporated herein.

(c) The Special Tax as apportioned to each parcel pursuant to
EXHIBIT “A” is based on the cost of making the Services available to each parcel of the
Annexed Territory, or other reasonable basis, and is not based on or upon the ownership of real
property.
7 SECTON. A special election (the "Election") is hereby called as a mail ballot election on the proposition of levying the Special Tax within the Annexed Territory. This Council further directs that this Resolution shall constitute the notice of the Election on the above proposition. However, the giving of such notice is waived if the City Clerk shall receive unanimous consent to such waiver from the Landowners.

8 SECTON. It is hereby found that there were fewer than twelve registered voters registered to vote within the Annexed Territory on any one day during the ninety days preceding the close of the protest hearing. Pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Annexed Territory and each landowner who is the owner of record at the close of the Hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the Annexed Territory. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

9 SECTON. If the City Clerk shall have received appropriate waivers of time limits and other requirements pertaining to the conduct of the Election by each of the owners of land included in the Annexed Territory (collectively, the "Landowners") on or before Tuesday, the 19th day of February, 2002, the Election shall be held on that day, or on such earlier date on which the City Clerk shall have received such waivers and completed ballots. Otherwise, the Election shall be held on the first Tuesday after that date which is 90 days after the date on which this Resolution is adopted.

The Election shall be conducted by the City Clerk in the manner required by this Resolution, the Act and applicable laws. Receipt by the City Clerk of this Resolution, a certified map of sufficient scale and clarity to show the boundaries of the Annexed Territory and a sufficient description to allow the City Clerk to determine the boundaries of the Annexed
Territory within three business days after the adoption of this Resolution shall be conclusively evidenced by the signature of the City Clerk on the certificate of adoption relating to this Resolution.

In accordance with Section 53326 of the Act, the ballots for the election shall be distributed by mail or by personal service by the City Clerk, with return postage prepaid, to each Landowner, or Landowner’s authorized representative for the purpose of voting its interests at the special election, within the Annexed Territory. The City Clerk shall certify the proper mailing or service of ballots by an affidavit, which shall constitute conclusive proof of mailing or service in the absence of fraud. The voted ballots shall be returned to the City Clerk in person or by mail, courier, messenger or other means of delivery not later than 7:00 p.m. on the day of the Election.

10 SECTION . Unless waived with the unanimous consent of all the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis pursuant to Section 5011 of the California Elections Code (the "Elections Code") and arguments and rebuttals, if any, pursuant to Sections 5012 to 5016, inclusive, and 5025 of the Elections Code.

11 SECTION . The Annexed Territory shall constitute a single election precinct for the purpose of holding the Election.

12 SECTION . The City Clerk is hereby authorized to take any and all steps necessary for the holding of the Election. The City Clerk shall perform and render all services and proceedings incidental to and connected with the Election. These services shall include, but not be limited to, the following activities as are appropriate to the Election:

1. Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms;
2. Furnish and address to mail or personally deliver the official ballots to the qualified electors of the Annexed Territory;

3. Cause the official ballots to be mailed or personally delivered, as required by law;

4. Receive the returns of the Election and supplies;

5. Sort and assemble the election material and supplies in preparation for the canvassing of the returns;

6. Canvass the returns of the Election;

7. Furnish a tabulation of the number of votes given in the Election;

8. Make all arrangements and take the necessary steps to pay all costs of the election incurred as a result of services performed for the Annexed Territory and pay costs and expenses of all election officials; and

9. Conduct and handle all other matters relating to the proceedings and conduct of the Election in the manner and form as required by law.

13 SECTION. Following the Election the City Clerk shall present a report to the City Council with the Election results. The Council shall then make a determination as to whether two-thirds or more of the votes cast are in favor of levying the Special Tax within the Annexed Territory. If the Council determines that two-thirds or more of the votes cast are in favor of the Special Tax, this Council may levy the Special Tax in the Annexed Territory in the amount and for the purposes specified in the Resolution of Intention to Annex. The Special Tax may be levied in the Annexed Territory at the rate and may be apportioned in the manner specified in the Resolution of Intention to Annex and in the attached EXHIBIT “A”.

14 SECTION. The City Clerk, in accordance with Sections 3114.5 and 3117.5 of the Streets and Highways Code, shall record an amendment to the Notice of Special Tax Lien.
originally recorded pursuant to Section 3114.5 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus as Document No. 2000-0109555-00 on December 22, 2000.

The foregoing Resolution was passed and adopted at a regular meeting of the City Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By 

MICHAEL D. MILICH, City Attorney
EXHIBIT “A”
CITY OF MODESTO
COFFEE-CLARATINA
COMMUNITY FACILITIES DISTRICT NO. 2000-2

CFD REPORT

November 13, 2000

Prepared For:
CITY OF MODESTO

Prepared By:
DAVID TAUSSIG & ASSOCIATES, INC.
425 University Avenue, Suite 110
Sacramento, California 95825
(916) 920-1109
Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>II. Structure of Community Facilities District No. 2000-2</td>
<td>1</td>
</tr>
<tr>
<td>A. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>B. Boundaries of Coffee-Claratina CFD</td>
<td>1</td>
</tr>
<tr>
<td>C. CFD Special Tax Structure</td>
<td>2</td>
</tr>
<tr>
<td>III. Description of Services and Expenses to be Funded by CFD No. 2000-2</td>
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</tr>
</tbody>
</table>

APPENDICES:

Appendix A: CFD Boundary Map
Appendix B: Calculation of Maximum Special Tax
Appendix C: Rate and Method of Apportionment of Special Tax
Appendix D: Services to be Funded by CFD 2000-2
I. **INTRODUCTION**

The Coffee-Claratina site is located within a “Comprehensive Planning District (CPD)”, which, pursuant to the City of Modesto General Plan, necessitates adoption of a specific plan prior to development within the area. The Coffee-Claratina Specific Plan was adopted by the Modesto City Council setting forth a plan for development which includes 130 acres designated for a maximum of 1,000 residential dwelling units, 40 acres designated “Regional Commercial”, and 15 acres of “Mixed Community Commercial” development. The Coffee-Claratina CPD is located on the south side of Claratina Avenue, bound by Coffee Road on the east, McHenry Avenue on the west, and the Modesto City limits to the south.

Tentative maps approved for development within the Specific Plan area require, as a condition of development, that the property be included within a Mello-Roos Community Facilities District (CFD) to fund maintenance of median, bikeway, round-about and miscellaneous planting areas. In addition, the CFD will generate funding for maintenance and repair of a storm drain basin and dual-use flood control/recreation facility.

II. **STRUCTURE OF COMMUNITY FACILITIES DISTRICT No. 2000-2**

A. **Introduction**

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

The Resolution of Intention to Establish CFD No. 2000-2 was adopted by the City Council on October 17, 2000. After a public hearing and a successful election by the landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. **Boundaries of Coffee-Claratina CFD**

The initial boundaries of the CFD include six assessor’s parcels and a total of 78.10 gross acres. Nine additional assessor’s parcels are anticipated to annex into CFD No. 2000-2 when development is triggered on the parcels; ultimately, the CFD will include approximately 131 gross acres and an estimated 78 net developable acres. A copy of the boundary map for CFD No. 2000-2 is included as Appendix A of this CFD Report. Appendix B identifies the assessor’s parcels that are ultimately expected to be included with the boundaries of CFD No. 2000-2 and the maximum special tax that can be collected within the CFD based on the estimated net developable acreage of these parcels.
C. CFD Special Tax Structure

Each year a special tax will be levied and collected from parcels within the CFD to pay costs associated with the maintenance and repair of a storm drain basin and a dual-use flood control/recreation facility, and the ongoing maintenance of median, bikeway, round-about and miscellaneous planting areas within the Specific Plan. The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix C of this report.

As explained in the RMA, an "Annual Special Tax" will be levied to pay for authorized maintenance expenses, in an amount not to exceed $2,468 per acre in fiscal year 2001-02 dollars. This maximum tax will escalate each year by applying the greater of (i) the percentage increase, if any, in the Engineering News Record construction cost index for the San Francisco region for the prior twelve month period, or (ii) four percent. The Annual Special Tax will first be levied on "Developed Property", which is defined, for a particular fiscal year, as any parcel for which a final building permit inspection was conducted or certificate of occupancy issued by June 1 of the preceding fiscal year. After the maximum Annual Special Tax has been collected from Developed Property, the remaining amount needed for authorized expenses in the fiscal year will be collected from "Undeveloped Property", which includes all parcels that have not had a final building permit inspection conducted or certificate of occupancy issued.

In addition to the Annual Special Tax, an "Annexation One-Time Special Tax" will be collected from all parcels that annex into CFD No. 2000-2 in future fiscal years. The Annexation One-Time Special Tax will be calculated pursuant to the formula set forth in Section E of the RMA and will be collected to reimburse the landowner who made the initial deposit to the City to pay the costs of forming CFD No. 2000-2. The Annexation One-Time Special Tax must be paid prior to approval by the City Council of the resolution approving the annexation.

III. DESCRIPTION OF SERVICES AND EXPENSES TO BE FUNDED BY CFD NO. 2000-2

The individual line-item service costs to be funded by CFD No. 2000-2 are identified in Appendix D of this report.
APPENDIX A

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

CFD BOUNDARY MAP
APPENDIX B

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

CALCULATION OF MAXIMUM SPECIAL TAX
CITY OF MODESTO
COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2

CALCULATION OF MAXIMUM ANNUAL SPECIAL TAX

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<tr>
<td>Acreage Within CFD</td>
<td>Net Developable Acreage/2</td>
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<td>Net Developable CFD Acreage</td>
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<td>Buffer for Maximum Tax Calculation</td>
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<tr>
<td>Estimated Net Taxable Acreage in CFD</td>
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</table>

1. The maximum Annual Special Tax will escalate each year at the greater of (i) the percentage increase in the ENR Index for the San Francisco region, or (ii) four percent.

2. Source: Benchmark Engineering, Inc.

David Taussig & Associates, Inc.

10/10/2000
APPENDIX C

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
CITY OF MODESTO  
COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2  

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX  

A special tax applicable to each Assessor's Parcel in Coffee-Claratina Community Facilities District No. 2000-2 (herein "CFD No. 2000-2") shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2000-2, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2000-2 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS  

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, or other recorded County parcel map.

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

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

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

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2000-2.

"Developed Property" means, in any Fiscal Year, all Taxable Property for which a final building permit inspection was conducted or a certificate of occupancy issued prior to June 1 of the preceding Fiscal Year.
“District Administrator” means the individual(s) designated by the City Council to administer the CFD in accordance with the authority and powers granted by the City Council to said individual(s).

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

“Maintenance Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2000-2, (iii) cure any delinquencies in the payment of Annual Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) maintain a reasonable reserve, as determined by the District Administrator, for unforeseen expenses, cost overruns, etc.

"Maximum Annual Special Tax" means the maximum Annual Special Tax determined in accordance with Section C below, that can be levied on Taxable Property in any Fiscal Year.

“Proportionately” means, for Developed Property, that the ratio of the actual Annual Special Tax levied in any Fiscal Year to the Maximum Annual Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Special Tax to the Maximum Annual Special Tax is equal for all Assessor’s Parcels of Undeveloped Property.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2000-2 which are not exempt from the Annual Special Tax pursuant to law or Section E below.

“Undeveloped Property” means, in any Fiscal Year, all Taxable Property that is not Developed Property.

B. CATEGORIZATION OF PARCELS

Each Fiscal Year, the District Administrator shall identify the current Assessor’s Parcel number for each Assessor’s Parcel within the CFD, and shall categorize each Parcel of Taxable Property as Developed Property or Undeveloped Property. The District Administrator shall also identify the current Acreage of each Parcel by reference to the Stanislaus County Assessor’s Parcel Maps.

C. MAXIMUM ANNUAL SPECIAL TAX

The Maximum Annual Special Tax for all Parcels of Taxable Property within CFD No. 2000-2 for Fiscal Year 2001-02 is $2,468 per Acre. Beginning in January 2002, the Maximum Annual Special
Tax shall be adjusted annually by applying the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Each Fiscal Year, the District Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Special Tax shall be levied proportionately on each Parcel of Developed Property up to 100% of the Maximum Annual Special Tax for Taxable Property for such Fiscal Year determined pursuant to Section C;

**Step 2:** If additional revenues are needed to meet the Maintenance Special Tax Requirement after Step 1, the Annual Special Tax shall be levied proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Special Tax for Taxable Property for such Fiscal Year determined pursuant to Section C.

The Annual Special Tax for CFD No. 2000-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes provided, however, that CFD No. 2000-2 may (under the authority of Government Code Section 53340) in any particular case bill the taxes directly to the property owner, off the County tax roll, and the Annual Special Tax will be equally subject to foreclosure if delinquent.

E. ANNEXATION ONE-TIME SPECIAL TAX

A one-time Special Tax shall be levied on property that annexes into CFD No. 2000-2 after the CFD is formed. This "Annexation One-time Special Tax" shall be used to reimburse the landowner who made the initial deposit to the City to cover the costs of forming the CFD. The Annexation One-time Special Tax shall be calculated for each annexing property as follows:

**Step 1.** Add the estimated net developable acres for the annexing property to the estimated net developable acreage for property already within the CFD at the time of annexation;

**Step 2.** Divide the net developable acres within the annexation area by the sum determined in Step 1 to determine the annexing property’s share of the total net developable acreage within the CFD;
Step 3. Multiply the quotient determined in Step 2 by either (i) $64,500 in 2000 dollars, which shall increase on January 1, 2001 and on each January 1 thereafter by applying the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) such lower number as shall be determined by the City as the amount that was actually expended to cover the costs of formation of CFD No. 2000-2.

The Annexation One-time Special Tax must be paid prior to approval by the City Council of the resolution approving the annexation. If for any reason the Annexation One-time Special Tax has not been paid for property that has been annexed into the CFD, the Annexation One-time Special Tax shall be subject to an immediate 10% penalty plus interest charges of 1 1/2% as of the first day of the month after the City Council adopted the resolution approving the annexation and on the first day of each month thereafter. Any such delinquent special taxes shall, at the City’s discretion, be placed on the next secured property tax roll along with the Annual Special Tax levied pursuant to Section D above. The amount placed on the roll shall include the 10% penalty and interest charges through the following December 1.

F. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Annual Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982.

G. ENFORCEMENT

If any delinquent Annual Special Taxes are billed off the County tax roll, such Annual Special Taxes shall be subject to an immediate 10% penalty plus interest charges of 1 1/2% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent special taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following December 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract or guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
APPENDIX D

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

DETAIL OF EXPENSES TO BE FUNDED BY CFD
# Coffee-Claratina CFD No. 2000-2

## Overview - Storm Drain Basin Expenses

### Description

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<th>Annual Expense</th>
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<tr>
<td>Median Plantings (25,396 s.f. @ $.61 + 20% contingency)</td>
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<tr>
<td>Bikeway Plantings (36,187 s.f. @ $.61 + 20% contingency)</td>
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<td>Round About Plantings (1,591 s.f. @ $.61 + 20% contingency)</td>
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<td>Back Up Lot Plantings (2,849 s.f. @ $.61 + 20% contingency)</td>
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<tr>
<td>MID power costs ($20/mo. per location * 5 locations * 12 mos.)</td>
<td>$1,440.00</td>
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### West Basin

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<tr>
<th>Description</th>
<th>Annual Expense</th>
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</thead>
<tbody>
<tr>
<td>Crew Leader (12 one-hour visits @ $20.73/hr + 32% benefits)</td>
<td>$328.36</td>
</tr>
<tr>
<td>Supervisor (4 one-hour visits @ $26.02/hr + 32% benefits)</td>
<td>$137.39</td>
</tr>
<tr>
<td>Superintendent (2 one-hour visits @ $33.23/hr + 32% benefits)</td>
<td>$87.73</td>
</tr>
<tr>
<td>Equipment: 1/2 Ton Full Size Pick-Up - Crew Leader (12 hrs x $2.37)</td>
<td>$28.44</td>
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<tr>
<td>1/2 Ton 4/4 Full Size Pick-Up - Supervisor (4 hrs x $2.50)</td>
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<td>1/2 Ton Full Size Pick-Up - Superintendent (2 hrs x $2.37)</td>
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<td>Annual lab tests</td>
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<td>Silt excavation, erosion repair for annual improvement maintenance to basin</td>
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<tr>
<td>Maintenance of landscaping (at build-out) (includes monthly water charges)</td>
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### East Basin

<table>
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<td>Silt excavation, erosion repair for annual improvement maintenance to basin</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>Maintenance of landscaping (9.5 acres @ $8,181/acre) (includes monthly water charges)</td>
<td>$77,719.50</td>
</tr>
</tbody>
</table>

| Administration (10% of total cost) | $16,587.45 |

**Total:** $182,461.97
A RESOLUTION APPOINTING GAYLORD BOYER TO THE AIRPORT ADVISORY COMMITTEE

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

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

SECTION 1. Gaylord Boyer is hereby appointed to the Airport Advisory Committee, representing non-provider user/general aviation side, with term expiration of January 1, 2006.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Friedman, 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, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jeann Zahr, City Clerk
A RESOLUTION APPOINTING GENE CARHART AND MARK HEINZINGER TO THE COMMUNITY QUALITIES FORUM

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

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

SECTION 1. Gene Carhart and Mark Heinzinger are hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2006.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum, and the Secretary thereof.

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 Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-71

A RESOLUTION APPOINTING JOANN GEE, EDWIN LOPES AND BRIAN CARSON TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

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

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


SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Equal Opportunity/Disability Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-72

A RESOLUTION APPOINTING LAURA NORWOOD TO THE HOUSING REHABILITATION LOAN COMMITTEE

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

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

SECTION 1. Laura Norwood is hereby appointed to the Housing Rehabilitation Loan Committee, representing the Stanislaus County Housing Authority, with term expiration of January 1, 2005.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES:  Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST:  Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-73

A RESOLUTION REAPPOINTING DWIGHT BATEMAN, SCOTT HALLMON AND EDWIN PENFOLD TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

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

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


SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Equal Opportunity/Disability Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-74

A RESOLUTION REAPPOINTING RICARDO CORDOVA TO THE HOUSING
REHABILITATION LOAN COMMITTEE

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

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

SECTION 1. Ricardo Cordova is hereby reappointed to the Housing
Rehabilitation Loan Committee with a term expiration of January 1, 2006.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this
resolution to the reappointed member of the Housing Rehabilitation Loan Committee,
and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 12th day of February, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: JEAN ZAHR, City Clerk
A RESOLUTION REAPPOINTING JEROME BEAMISH, WILLIAM STEWART AND THOM TORVEND TO THE LANDMARK PRESERVATION COMMISSION

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

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

SECTION 1. Jerome Beamish, William Stewart and Thom Torvend are hereby reappointed to the Landmark Preservation Commission with term expirations of January 1, 2006.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: JEAN ZAHR, City Clerk

2/12/02/CMO/E Puckett 2002-75
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-76

A RESOLUTION REAPPOINTING ALITA ROBERTS TO THE CITIZENS REDEVELOPMENT ADVISORY COMMISSION

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

SECTION 1. Alita Roberts, as representative of the Planning Commission, is hereby reappointed to the Citizens Redevelopment Advisory Commission with a term expiration of January 1, 2003.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Citizens Redevelopment Advisory Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 12th day of February, 2002, by Councilmember Friedman, 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: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, Agency Secretary
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-77

A RESOLUTION ESTABLISHING A POLICY FOR THE USE OF CELL PHONES BY MEMBERS OF THE MODESTO CITY COUNCIL.

WHEREAS, the City Council does not now have a policy with respect to the use of City owned cell phones by members of the City Council, and

WHEREAS, the City Council hereby finds and determines that it is in the public interest for the City Council to adopt such a policy,

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

SECTION 1. Every member of the Modesto City Council may use a City cellular telephone upon request. The request shall be made to the City Manager. The City and not the Councilmember will purchase the cellular telephone. The Purchasing Division of the Finance Department will be utilized to ensure that the purchase of each such cellular telephone is cost effective and that subsequent maintenance charges are reasonable.

SECTION 2. If the phone is damaged, lost, or fails to work properly, the Councilmember will notify the City Manager’s office immediately. In case of theft, the Watch Commander of the Modesto Police Department shall be notified immediately. The Councilmember assigned to the phone is responsible for its security. If repair or replacement of a phone is necessary, the Councilmember should notify the City Manager who shall then notify the Purchasing Division of the Finance Department to make arrangements for the repair or replacement. Each Councilmember who is issued a phone is responsible for the maintenance and care of the phone and any ancillary equipment.

RESCINDED
SECTION 3. Any such cellular telephone provided to a Councilmember is to be used for official City business only. Notwithstanding that cellular telephones issued to Councilmembers are provided primarily for City business, it is recognized that occasional use to send or receive personal calls may occur. It shall be the responsibility of each Councilmember to review monthly bills to identify personal calls and to also maintain a record of all personal calls received. Councilmembers who use or have access to a City cellular phone pursuant to this policy shall reimburse the City promptly for any personal use.

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 Fisher, who moved its adoption, which motion being duly seconded by Councilmember Smith, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-78

A RESOLUTION ACCEPTING THE PROJECT TITLED
“INSTALLATION OF TRAFFIC SIGNALS AT OAKDALE ROAD AND
MABLE AVENUE, COFFEE ROAD AND MABLE AVENUE, AND AT
HATCH ROAD AND USTICK AVENUE” AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director
that the project titled Installation of Traffic Signals at Oakdale Road and Mable Avenue,
Coffee Road and Mable Avenue, and at Hatch Road and Ustick Avenue, has been
completed by Clayborn Contracting Group, Inc., in accordance with the contract

NOW, THEREFORE, BE IT RESOLVED that the Installation of Traffic Signals
at Oakdale Road and Mable Avenue, Coffee Road and Mable Avenue, and at Hatch Road
and Ustick Avenue project be accepted from said contractor, Clayborn Contracting
Group, Inc., that the notice of completion be filed with the Recorder of Stanislaus County
and that payment of amounts due in the amount of $362,020.08 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 19th day of February, 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, Friedman, Frohman, Serpa, Smith,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  MICHAEIL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-79

A RESOLUTION SUPPORTING THE CLEAN WATER, CLEAN AIR, SAFE PARKS AND COASTAL PROTECTION BOND ACT OF 2002 (PROPOSITION 40).

WHEREAS, Governor Davis has signed AB 1602, which places the Clean Water, Clean Air, Safe Parks and Coastal Protection Bond Act on the 2002 ballot, and

WHEREAS, this $2.6 billion measure would provide funding to state and local parks, historical and cultural resources, urban forestry and other open space acquisition, preservation, protection and development projects, and

WHEREAS, on October 3, 2001, the Human Services Committee recommended that support of Proposition 40 be included in the City Council’s 2001 Legislative Platform, and

WHEREAS, on November 7, 2001, the City Council adopted a resolution amending the 2001 Legislative Platform’s Land Use and Planning Element to include support of AB 1602, and

WHEREAS, on February 6, 2002, the Human Services Committee recommended that a resolution of support for Proposition 40 be adopted by the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports the Clean Water, Clean Air, Safe Parks and Coastal Protection Bond Act of 2002.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the Planning and Conservation League and the California Park and Recreation Society.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of February, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: Conrad

ABSENT: Councilmembers: None

Attest: ____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ______________________________
MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING DIRECT CITY ASSISTANCE REQUESTED BY THE CAROLE SUND/CARRINGTON MEMORIAL REWARD FOUNDATION FOR $850 IN CITY FINANCIAL SUPPORT FOR THE ANNUAL VIGIL OF HOPE ON MARCH 9, 2002 AT GRACEADA PARK

WHEREAS, the Parks, Recreation and Neighborhoods Department received a request for direct city assistance from the Carole Sund/Carrington Memorial Reward Foundation requesting waiver of fees for use of Mancini Bowl, rental of portable toilets and event insurance for their annual Vigil of Hope on March 9, 2002 at Graceada Park, 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, the Carole Sund/Carrington Foundation is requesting that the City waive Mancini Bowl Rental Fees ($240), portable toilet rental fees ($340) and insurance coverage fees ($160), in the total amount of $740, and

WHEREAS, the Carole Sund/Carrington Foundation conducted previous Vigils of Hope at Graceada Park on March 11, 2000, and March 4, 2001, to create public awareness for missing persons and to provide families with resources, for which the City provided Direct City assistance, and

WHEREAS, the Human Services Committee met on February 6, 2002, and supported waiving of the fees for the requested facilities and services, and further supported amending the budget to allocate funding from the General Fund Reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from the Carole Sund/Carrington Memorial Reward Foundation requesting waiver of fees for use of Mancini Bowl, rental of portable toilets and event insurance in the total amount of $740 for their annual Vigil of Hope on March 9, 2002 at Graceada Park.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 19th day of February, 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, Serpa, Smith,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Friedman

APPROVED AS TO FORM:

Attest: 
JEAN ZAHR, City Clerk

By: 
MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING THE BUDGET TO TRANSFER $850 FROM THE GENERAL FUND RESERVE TO PROVIDE FUNDING TO THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT AND THE OPERATIONS AND MAINTENANCE DEPARTMENT TO COVER THE COSTS OF PROVIDING FACILITIES AND SERVICES TO THE CAROLE SUND/CARRINGTON MEMORIAL REWARD FOUNDATION'S ANNUAL VIGIL OF HOPE ON MARCH 9, 2002, AT GRACEADA PARK

WHEREAS, the Parks, Recreation and Neighborhoods Department received a request from the Carole Sund/Carrington Memorial Reward Foundation requesting waiver of fees for use of Mancini Bowl, rental of portable toilets and event insurance in the amount of $740 for their annual Vigil of Hope on March 9, 2002 at Graceada Park, and

WHEREAS, the Human Services Committee met on February 6, 2002, and supported waiving of the fees for the requested facilities and services, and further supported amending the budget to allocate funding from the General Fund Reserve,

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 $740 from the General Fund Reserve, 0100-800-8000-8003, to: 0100-380-3801-0110, Parks Recreation and Neighborhoods Department, Community Services Organization, ($27); 0100-480-4522-0140, Operations and Maintenance Department, Parks Organization, ($213); 0100-480-4522-0216, Operations and Maintenance Department, Parks Organization ($340); and 0100-380-3801-0416, Parks Recreation and Neighborhoods Department, Community Services Organization ($160).
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 19th day of February, 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, Serpa, Smith,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Friedman

Attest: ____________________________
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: ________________________________
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2001-82

A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 CAPITAL IMPROVEMENT PLAN BUDGET TO APPROPRIATE $12,000 FROM THE PARKS CAPITAL FACILITIES FEE RESERVE, 1350-800-8000-8003 TO PROJECT 1350-310-M178-6010, SUTTON COMMUNITY PARK

WHEREAS, on March 13, 2001, the City of Modesto entered into a contract with the HLA Group for professional landscape architectural services to hold three public design workshops and to prepare a Master Plan and Design Development Report for Sutton Community Park, and

WHEREAS, due to public concern, it was deemed necessary to hold a fourth public workshop, and

WHEREAS, the HLA Group has agreed to conduct the additional workshop and incorporate the recommendations into the Master Plan and Design Development Report for a cost of $4,500, and

WHEREAS, since adoption of the Capital Improvement Plan for Fiscal Year 2000-01, staff has determined that a traffic study should be completed for this project at a cost of $6,000, and

WHEREAS, in order to provide staff management and oversight to the additional aspects of the project described above, an additional $1,500 is needed for the project, and

WHEREAS, a total of $57,000 is needed to fund the Master Plan, Design Development Report, traffic study and staff management, and

WHEREAS, $45,000 is available from Capital Improvement Project 1350-310-M178, Sutton Community Park, and

WHEREAS, $12,000 is available in 1350-800-8000-8003, the Parks Capital Facilities Fees Fund available fund balance,

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 transfer $12,000 from 1350-800-8000-8003, Parks Capital Facilities Fees Reserve to project 1350-310-M178-6010, Sutton Community Park.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of February, 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, Friedman, Frohman, Serpa, Smith, 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. 2002-83

A RESOLUTION APPROVING AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MODESTO ("CITY") AND JAY M. COREY FOR THE POSITION OF REDEVELOPMENT ADMINISTRATOR AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT AND AMENDING THE COMMUNITY DEVELOPMENT BUDGET TO RECEIVE THE MODESTO REDEVELOPMENT AGENCY REVENUE TO FUND SAID POSITION.

WHEREAS, CITY has determined that it is in CITY’S best interest to employ staff services to provide the following:

1. Assistance to the Council, the City Manager, the Community Development Director and Redevelopment staff in the planning, coordination and administration of activities of the Redevelopment Agency
2. Management of activities involving commercial and industrial development including program development, project negotiation, land acquisition, project planning and short- and long-term budgeting. In addition, management of activities including the development of project financing options for commercial, industrial and housing projects
3. Support to other City staff working on redevelopment and other economic development issues and provide complex staff assistance to the Department Director, and

WHEREAS, this employment agreement will accomplish several economic development and redevelopment goals identified by the City Council, including:

1. Reduce the need to hire private firms to perform project administration for redevelopment
2. Maintain consistency in establishing and implementing redevelopment and economic development policies and long-term goals
3. Ensure that the RDA’s best interests are met in project negotiations for future RDA projects including Kansas Avenue Business Park and future downtown housing projects.
4. Ensure that the RDA maintains the best financial position in all project negotiations, and

WHEREAS, CITY has determined that said staff services would require an employee working 30 hours per week as a Redevelopment Administrator, and

WHEREAS, CITY desires to employ Jay M. Corey in the position of Redevelopment Administrator and to provide certain benefits, establish certain conditions of employment and set working conditions, and
WHEREAS, the Modesto Redevelopment Agency (RDA) has budgeted funds and has provided service credits to the City of Modesto for a 30-hour-per-week position for a Redevelopment Administrator, including certain agreed-upon benefits set forth in said Employment Agreement which is attached hereto as “Exhibit A” and made a part hereof by this reference, and

WHEREAS, the Community Development Department will receive said RDA revenue by way of service credits to the City of Modesto to fund a 30-hour-per-week position for a Redevelopment Administrator, including certain agreed-upon benefits.

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

SECTION 1. Said Employment Agreement is approved by and between CITY and Jay M. Corey to provide specified staff services as set forth in said Exhibit A.

SECTION 2. This resolution shall become effective on and after February 19, 2002.

BE IT FURTHER RESOLVED that the Community Development Department budget is hereby amended to receive the Modesto RDA revenue to fund said Redevelopment Administrator.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of February, 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, Friedman, Frohman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

02/19/02/CDD/L Boston -2- 2002-83
EXHIBIT “A”

REDEVELOPMENT ADMINISTRATOR

DEFINITION
To assist the Community Development Director and Redevelopment staff in the planning, coordinating and administration of activities of the Modesto Redevelopment Agency. These activities involve commercial and industrial development including program development, project negotiation, land acquisition, project planning and short- and long-term budgeting. In addition, activities will include the development and management of project financing options for commercial, industrial and housing projects, recommending policy, creating, implementing and serving as project manager for affordable housing developments funded by the Agency; engaging the private sector and other public agencies in the implementation of redevelopment activities and programs. This position supports and teams with other City staff working on redevelopment and other economic development issues and provides complex staff assistance to the Department Director.

SUPERVISION RECEIVED AND EXERCISED:
Receives general direction from the Community Development Director in conjunction with the Business Development Manager. May exercise direct supervision over other professional, technical and/or clerical staff in assigned area.

EXAMPLES OF DUTIES:
Duties may include, but are not limited to, the following:

• Administration of specific projects which include and/or are similar in type and complexity to the following: Kansas Avenue Business Park, North Gateway Business Park; Housing developments in the downtown area; Westland Office Project; Hinchey/Bray Office Project and/or any project specifically assigned by the City Manager.
• Form partnerships, support strategic planning, create programs and projects and work effectively with the private sector community in creating and implementing redevelopment programs.

• Direct, oversee and participate in the division activities in the areas of redevelopment finance, asset management, business retention and recruitment, business loans and environmental regulations as they relate to redevelopment projects.

• Implement goals, objectives, policies and priorities for Agency’s redevelopment services; identify resource needs.

• Supervise negotiation and preparation of documents such as disposition and development agreements, owner participation agreements, exclusive negotiating agreements, property options, contracts, resolutions, and requests for proposals/qualifications.

• Prepare documents for action by the Agency; conduct special studies and prepare/present comprehensive reports on all aspects of assigned programs and activities. Also serve as a technical resource for developers of redevelopment projects in the application of redevelopment law.

• Analyze and evaluate complex revenue and other financial proformas and studies used in financial and budgetary planning, assessment districts, tax increment financing, bond financing and business loans.

• Understand and utilize tax allocation bonds, tax exempt bonds, grants, loan agreements, and other redevelopment debt financing.

• Evaluate projects based on revenue projections and business plans; investigate and recommend appropriate sources of funding for redevelopment projects.

• Assist Department Director with review of impact of environmental regulations and laws; make recommendations for legislative amendments related to redevelopment.

• Assist Department Director with the evaluation of proposals containing incentives to help broaden the local tax bases, generate or attract new capital, increase business activity, produce jobs and diversify the local economy within the redevelopment area.

• Work towards the creation of projects that add tax increment value to the
redevelopment area, in particular, and the City in general. Job creation in commercial and industrial areas is a critical element of the redevelopment program.

- Build consensus among and between the Agency, the City, property owners and developers and work within the regulatory environment to win compliance, rather than to control or constrain those being regulated.

- Be an accomplished team player, with a strong commitment to the community; Be able to make decisions but still remain flexible and open to innovative ideas.

- Be extremely results-oriented and work toward continued improvement of the redevelopment program by updating and redesigning redevelopment procedures and process based on the measurement of results and data related to the desired outcomes.

- Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

- Assist the Department director with the administration of the redevelopment budget; assist with the evaluation of the forecast of funds needed for goals; monitor and approve expenditures; implement mid-year adjustments for redevelopment.

- Appear before the City Council, boards, commissions and numerous civic organizations representing the Redevelopment Agency. Perform work in a variety of settings including offices, field, and community meetings; Participate extensively in the private sector investment and financial community, both local and state-wide.

- Coordinate division activities with those of other departments and outside agencies and organizations; prepare and present staff reports and other necessary correspondence.

- Perform other duties as assigned.

QUALIFICATIONS: Knowledge of:

- California redevelopment law, including implementation, financing, resources and development techniques
• Advanced principles and practices of public administration, urban planning, fiscal analysis, housing economics and redevelopment financing.
• Principles and practices of supervision, office management, Redevelopment Agency budgetary processes, management theories principles, and techniques.
• Pertinent laws, codes and regulations relating to land acquisition, real estate transactions, eminent domain regulations and environmental issues.
• Methods and techniques of statistical analysis, effective technical report preparation and presentation (both oral and graphic)
• General legal authority and parameters for carrying out bonds, grants, assessment, loans and other financial transactions authorized by and/or related to redevelopment law, including public budgeting, reporting financial forecasting, and financial analysis
• Advanced principles and practices of negotiations, conflict resolution, and contract administration

ABILITY TO:
• Assist with the preparation and administration of redevelopment operating and capital budgets and control budget expenditures
• Effectively manage assigned areas of the redevelopment program
• Analyze economic studies, proformas, financial statements, marketing studies, plans, specifications and bid documents
• Supervise, evaluate and train assigned staff
• Interpret and apply pertinent redevelopment laws, rules and regulations
• Ensure project and grant compliance with Federal, State and local redevelopment rules, laws and regulations
• Prepare and analyze technical and administrative reports, statements and correspondence
• Establish and maintain cooperative working relationships with those contacted in the course of work
• Demonstrate strong, effective and professional oral and written communication abilities as well as strong interpersonal skills
**Special Condition:** Positions in this class are funded by Redevelopment Agency funds and may be eliminated when such funds are no longer available to the Agency or when approved projects are completed.

**License or Certificate:**
Possession of, or ability to obtain an appropriate, valid California driver's license
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-84

A RESOLUTION REAPPOINTING RAY FELLER TO THE BOARD OF
ZONING ADJUSTMENT

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

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

SECTION 1. Ray Feller, as representative of the Planning Commission, is hereby
reappointed to the Board of Zoning Adjustment with a term expiration of January 1,
2003.

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

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 19th day of February, 2002, by Councilmember
Frohman, who moved its adoption, which motion being duly seconded by
Councilmember Friedman, was upon roll call carried and the resolution adopted by the
following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Frohman, Serpa, Smith,
Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-85

A RESOLUTION APPROVING THE FINAL MAP OF SUNDANCE LAKE UNIT NO. 2 SUBDIVISION OF THE CITY OF MODESTO

WHEREAS, SUNDANCE LAKE MODESTO, LLC, a Delaware Limited Liability Company, SUNDANCE LAKE MODESTO INVESTORS, LLC, a California Limited Liability Company, its Managing Member, by GRUPE INVESTMENT COMPANY, INC., a California Corporation, its Managing Member, and JOSEPH DARWIN COLBY, Trustee of the JOSEPH DARWIN COLBY TRUST dated April 1, 1994, are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 10.96 acres, known as Sundance Lake No. 2 in the Village One Specific Plan Area ("Subdivision"), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 18th day of December, 2000, and

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

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUNDANCE LAKE UNIT NO. 2 meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for streets, alleys and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid; and after subdivider has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.
BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney

By: Alison A. Barratt-Green
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-86

A RESOLUTION APPROVING AMENDMENT NO. 14 TO THE AGREEMENT FOR ENGINEERING SERVICES FOR 9th STREET RAILROAD RELOCATION PROJECT WITH DELEUW, CATHER & COMPANY (NOW PARSONS TRANSPORTATION GROUP), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

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

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

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

WHEREAS, Amendment No. 12 funded the re-design efforts after Caltrans approved the Highway 132 project which has an alignment one block over from the original design, and

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

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

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 14 to an agreement between the City of Modesto and De Leuw, Cather, & Company (now Parsons Transportation Group) to expand the scope of engineering services for the 9th Street Railroad Relocation project be, and it is hereby approved.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute said amendment.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

ATTEST:  

JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By  

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-87

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH RRM DESIGN GROUP FOR PROFESSIONAL ARCHITECTURAL SERVICES FOR MADDUX YOUTH CENTER DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENTS

WHEREAS, the City of Modesto owns Maddux Youth Center, a 7,200 square foot wood frame and concrete block structure built in 1952, and
WHEREAS, the facility is used by 3,500 to 4,000 youth per month and, due to building age and use, improvements are desired, and
WHEREAS, staff interviewed architectural firms and determined that RRM Design Group, Inc., was the most qualified, and
WHEREAS, RRM Design Group agreed to provide the plans, specifications and cost estimate for the remodeling work at a cost not to exceed $58,200, and
WHEREAS, on August 14, 2001, the City Council approved awarding a contract to RRM Design Group to provide said services, and
WHEREAS, since that time, staff has determined that it is desirable to increase the addition to include space for Police Activities League boxing and to include 2 outdoor handball courts, and
WHEREAS, RRM Design Group has agreed to provide the additional design services for an additional $54,426, for a total cost of $112,626, and
WHEREAS, $450,000 has been allocated to Capital Project 2300-310-M182, Maddux Youth Center Improvements, and
WHEREAS, the Human Services Committee met on February 6, 2002, and supported staff’s recommendation to amend the contract with RRM to include the expanded scope of services,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the amendment to agreement with RRM Design Group for professional architectural services to include preparation of design development and construction documents for the remodel and additional work at Maddux Youth Center at a total cost not to exceed $112,626.
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute said contract documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney

Attest: 

JEAN ZAHR, City Clerk

02/26/02/PR&N/ B Ford 2 2002-87
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-88

A RESOLUTION AMENDING THE FISCAL YEAR 01-02 CAPITAL IMPROVEMENT PROGRAM TO APPROPRIATE $110,000 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, TO 6600-310-M264, GOLF COURSE WELLS

WHEREAS, the Fiscal Year 01-02 Capital Improvement Program includes project 6600-310-M264, Golf Course Wells, for the purpose of repairing the existing well at Muni Golf Course and installing a booster pump at Creekside Golf Course, and

WHEREAS, staff has now determined that the existing well at Muni Golf Course cannot be repaired and a new well should be constructed, and

WHEREAS, an additional $110,000 is needed to complete the project, and

WHEREAS, the Human Services Committee met on February 6, 2002, and supported the staff recommendation to construct a new well at Muni Golf Course to be funded through a loan from the General Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the Fiscal Year 01-02 Capital Improvement Program to appropriate $110,000 from 0100-800-8000-8003, General Fund Reserve, to 6600-310-M264, Golf Course Wells.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002 by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

Attest: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
A RESOLUTION AWARDING A BID TO URS CORPORATION OF SANTA ANA, CALIFORNIA, IN THE AMOUNT OF $55,000 FOR ENGINEERING SERVICES TO ASSIST THE CITY IN SELECTING AND IMPLEMENTING AN AUTOMATED VEHICLE LOCATION (AVL) SYSTEM FOR THE MODESTO AREA EXPRESS (MAX) BUS SYSTEM AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE ENGINEERING SERVICES.

WHEREAS, by Request For Proposal (RFP) 0001-18, The Purchasing Division solicited formal bids for system engineering services to assist the City in selecting and implementing an Automated Vehicle Location system for the Modesto Area Express (MAX) bus system, and

WHEREAS, it was anticipated that the total cost of the system engineering services would be under the formal bid threshold of $50,000, and

WHEREAS, out of ten (10) firms solicited, four (4) responded to the City’s RFP, and

WHEREAS, the Engineering and Transportation Department-Transit Division has requested system engineering services from URS Corporation of Santa Ana, California, to assist the City in selecting and implementing an Automated Vehicle Location (AVL) system at a total estimated cost of Fifty Five Thousand and 00/100 Dollars ($55,000.00), and

WHEREAS, the City of Modesto, Engineering & Transportation Department has determined that technical support is required to assist in the planning, selection and installation of an Automated Vehicle Location system for the City’s fixed-route bus system, and

WHEREAS, the system-engriner will draft the AVL system specifications, and will assist in preparing the Request for Proposal (RFP) document, and provide advice and recommendations furthering the proposal evaluation process, and

WHEREAS, the Engineering and Transportation Department is responsible for improving public transit travel and making it safer and more efficient, while increasing overall passenger satisfaction, and
WHEREAS, the addition of an Automated Vehicle Location (AVL) system will improve the ability of a dispatcher to adjust to on-street operations; develop more efficient schedules; increase operator and customer safety through better emergency management and include maximum compatibility for future system upgrades, and

WHEREAS, the use of a system-engineer for selecting an AVL system is an essential element that will help insure the City select the most up-to-date and cost-effective AVL system, and

WHEREAS, an AVL system provides real time communication of exact bus location to a central dispatcher, and

WHEREAS, an AVL system allows City staff to monitor bus system operations from their own workstations, and

WHEREAS, an AVL system will provide a wide variety of data that is used as a basis for determining future route and schedule changes, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a bid in the amount of $55,000 to URS Corporation of Santa Ana, California, for system engineering services to assist the City in selecting and implementing an Automated Vehicle Location (AVL) system for the MAX bus system.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a contract with URS Corporation for system engineering services in the amount of $55,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

ATTEST: \[Signature\]
JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-90

A RESOLUTION CANVASSING THE RESULTS OF THE FEBRUARY 19, 2002, ELECTION HELD WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 2000-2, AND ORDERING ANNEXATION OF SAID TERRITORY TO THE DISTRICT (COFFEE-CLARATINA - ANNEXATION #1)

WHEREAS, pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), the City Council (the "Council") of the City of Modesto (the "City"), by its Resolution of Formation No. 2000-616, adopted on December 5, 2000, formed its Community Facilities District No. 2000-2 (the "District"), relating to territory within the Coffee-Claratina Area, and, subject to the vote of the qualified electors therein, authorized the levy of a special tax therein, and

WHEREAS, the Council thereafter declared its intention, by its Resolution of Intention to Annex No. 2002-24, adopted January 8, 2002, to annex certain territory to the District, a boundary map for which is recorded at Volume 3 AM of Maps of Assessment and Community Facilities Districts at page 55 in the Office of the Stanislaus County Recorder (the "Annexed Territory"), relating to territory within the Coffee-Claratina Area, and to levy a special tax therein (the "Special Tax") as set forth in Exhibit "A" hereto and by this reference incorporated herein for the purposes of financing certain facilities and services as set forth in Exhibit A hereto, and by this reference incorporated herein, and to set a hearing thereon for February 12, 2002, and

WHEREAS, at the conclusion of the public hearing, the Council did, on February 12, 2002, adopt its Resolution No. 2002-68, in which it determined to submit the question of the annexation of territory to the District and the levy of the Special Tax therein to the qualified electors of the Annexed Territory, and called an election thereon, which was held on February 19, 2002, (the "Election"), and

WHEREAS, on February 19, 2002, the Election was held relative to the foregoing, and

WHEREAS, the City Clerk has certified that, at the Election the proposition of levying the Special Tax within the Annexed Territory was approved by at least two-thirds (2/3) of the votes cast,
NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND, by the City Council of the City of Modesto, that:

1. The above recitals are true and correct.
2. The Election was duly and validly conducted in conformity with all applicable laws, rules and regulations pertaining thereto.
3. Based on the City Clerk's certificate of election results, attached hereto as Exhibit B, the ballot proposition presented to the qualified electors of the Annexed Territory, at the Election received at least two-thirds (2/3) of the votes cast.
4. Pursuant to Section 53339.8 of the Act, it is hereby determined that the Annexed Territory is added to and is a part of the District with full legal effect, and that this Council may levy the Special Tax within the Annexed Territory.
5. The City Clerk of the City of Modesto is hereby directed to enter this resolution in the minutes of this City Council, which shall constitute the official declaration of the result of such Election, and is hereby further authorized and directed to record notice of the annexation by filing an amendment to the notice of special tax lien with the Office of the County Recorder for the County of Stanislaus pursuant to Sections 3114.5 and 3117.7 of the California Streets and Highways Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

02/26/02/Atty-CFD/T Rocha 2 2002-90
Exhibit A
November 13, 2000

Prepared For:

CITY OF MODESTO

Prepared By:

DAVID TAUSSIG & ASSOCIATES, INC.
425 University Avenue, Suite 110
Sacramento, California 95825
(916) 920-1109
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>II. Structure of Community Facilities District No. 2000-2</td>
<td>1</td>
</tr>
<tr>
<td>A. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>B. Boundaries of Coffee-Claratina CFD</td>
<td>1</td>
</tr>
<tr>
<td>C. CFD Special Tax Structure</td>
<td>2</td>
</tr>
<tr>
<td>III. Description of Services and Expenses to be Funded by CFD No. 2000-2</td>
<td>2</td>
</tr>
</tbody>
</table>

**APPENDICES:**

Appendix A: CFD Boundary Map
Appendix B: Calculation of Maximum Special Tax
Appendix C: Rate and Method of Apportionment of Special Tax
Appendix D: Services to be Funded by CFD 2000-2
I. **INTRODUCTION**

The Coffee-Claratina site is located within a “Comprehensive Planning District (CPD)”, which, pursuant to the City of Modesto General Plan, necessitates adoption of a specific plan prior to development within the area. The Coffee-Claratina Specific Plan was adopted by the Modesto City Council setting forth a plan for development which includes 130 acres designated for a maximum of 1,000 residential dwelling units, 40 acres designated “Regional Commercial”, and 15 acres of “Mixed Community Commercial” development. The Coffee-Claratina CPD is located on the south side of Claratina Avenue, bound by Coffee Road on the east, McHenry Avenue on the west, and the Modesto City limits to the south.

Tentative maps approved for development within the Specific Plan area require, as a condition of development, that the property be included within a Mello-Roos Community Facilities District (CFD) to fund maintenance of median, bikeway, round-about and miscellaneous planting areas. In addition, the CFD will generate funding for maintenance and repair of a storm drain basin and dual-use flood control/recreation facility.

II. **STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 2000-2**

A. **Introduction**

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

The Resolution of Intention to Establish CFD No. 2000-2 was adopted by the City Council on October 17, 2000. After a public hearing and a successful election by the landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. **Boundaries of Coffee-Claratina CFD**

The initial boundaries of the CFD include six assessor’s parcels and a total of 78.10 gross acres. Nine additional assessor’s parcels are anticipated to annex into CFD No. 2000-2 when development is triggered on the parcels; ultimately, the CFD will include approximately 131 gross acres and an estimated 78 net developable acres. A copy of the boundary map for CFD No. 2000-2 is included as Appendix A of this CFD Report. Appendix B identifies the assessor’s parcels that are ultimately expected to be included with the boundaries of CFD No. 2000-2 and the maximum special tax that can be collected within the CFD based on the estimated net developable acreage of these parcels.
C. CFD Special Tax Structure

Each year a special tax will be levied and collected from parcels within the CFD to pay costs associated with the maintenance and repair of a storm drain basin and a dual-use flood control/recreation facility, and the ongoing maintenance of median, bikeway, round-about and miscellaneous planting areas within the Specific Plan. The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix C of this report.

As explained in the RMA, an “Annual Special Tax” will be levied to pay for authorized maintenance expenses, in an amount not to exceed $2,468 per acre in fiscal year 2001-02 dollars. This maximum tax will escalate each year by applying the greater of (i) the percentage increase, if any, in the Engineering News Record construction cost index for the San Francisco region for the prior twelve month period, or (ii) four percent. The Annual Special Tax will first be levied on “Developed Property”, which is defined, for a particular fiscal year, as any parcel for which a final building permit inspection was conducted or certificate of occupancy issued by June 1 of the preceding fiscal year. After the maximum Annual Special Tax has been collected from Developed Property, the remaining amount needed for authorized expenses in the fiscal year will be collected from “Undeveloped Property”, which includes all parcels that have not had a final building permit inspection conducted or certificate of occupancy issued.

In addition to the Annual Special Tax, an “Annexation One-Time Special Tax” will be collected from all parcels that annex into CFD No. 2000-2 in future fiscal years. The Annexation One-Time Special Tax will be calculated pursuant to the formula set forth in Section E of the RMA and will be collected to reimburse the landowner who made the initial deposit to the City to pay the costs of forming CFD No. 2000-2. The Annexation One-Time Special Tax must be paid prior to approval by the City Council of the resolution approving the annexation.

III. DESCRIPTION OF SERVICES AND EXPENSES TO BE FUNDED BY CFD NO. 2000-2

The individual line-item service costs to be funded by CFD No. 2000-2 are identified in Appendix D of this report.
APPENDIX A

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

CFD BOUNDARY MAP
COFFEE-CLARATINA CFD NO. 2000-2

PROPOSED BOUNDARIES OF CFD DISTRICT NO. 2000-2
CITY OF MODESTO, COUNTY OF STANISLAUS
STATE OF CALIFORNIA

GRAPHIC SCALE:

SCALE 1"=200'

1.00' = 2025' (1 inch = 296 ft)

PROJECT:

BASIS OF BEAINGS:

The survey of area shown was performed according to the Local Ordinance No. 509, as amended, of the City of Modesto, Stanislaus County, California.

Jan 2000, City Clerk

County Recorder of the City of Modesto, Stanislaus County, California.
PROPOSED BOUNDARIES OF CFD DISTRICT NO. 2000-2
CITY OF MODESTO, COUNTY OF STANISLAUS
STATE OF CALIFORNIA
APPENDIX B

Coffee-Claratina Community Facilities District No. 2000-2 of the City of Modesto

Calculation of Maximum Special Tax
### Calculation of Maximum Annual Special Tax

<table>
<thead>
<tr>
<th>Cost Estimates</th>
<th>Acreage Within CFD</th>
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<tbody>
<tr>
<td>Annual Maintenance Costs (2000 $)</td>
<td>$182,462</td>
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<td>(including 10% administration)</td>
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#### Maximum Tax Calculation

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<th>Net Developable Acreage/2</th>
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<tr>
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</table>

Net Developable CFD Acreage: 77.85
Buffer for Maximum Tax Calculation: 5.00%
Estimated Net Taxable Acreage in CFD: 73.96

1. The maximum Annual Special Tax will escalate each year at the greater of (i) the percentage increase in the ENR Index for the San Francisco region, or (ii) four percent.

2. Source: Benchmark Engineering, Inc.
APPENDIX C

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
CITY OF MODESTO
COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each Assessor's Parcel in Coffee-Claratina Community Facilities District No. 2000-2 (herein “CFD No. 2000-2”) shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2000-2, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2000-2 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, or other recorded County parcel map.

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

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

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

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2000-2.

"Developed Property" means, in any Fiscal Year, all Taxable Property for which a final building permit inspection was conducted or a certificate of occupancy issued prior to June 1 of the preceding Fiscal Year.
"District Administrator" means the individual(s) designated by the City Council to administer the CFD in accordance with the authority and powers granted by the City Council to said individual(s).

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

"Maintenance Special Tax Requirement" means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2000-2, (iii) cure any delinquencies in the payment of Annual Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) maintain a reasonable reserve, as determined by the District Administrator, for unforeseen expenses, cost overruns, etc.

"Maximum Annual Special Tax" means the maximum Annual Special Tax determined in accordance with Section C below, that can be levied on Taxable Property in any Fiscal Year.

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

"Public Agency" means the federal government, State of California or other local governments or public agencies.

"Taxable Property" means all of the Assessor’s Parcels within the boundaries of CFD No. 2000-2 which are not exempt from the Annual Special Tax pursuant to law or Section E below.

"Undeveloped Property" means, in any Fiscal Year, all Taxable Property that is not Developed Property.

B. CATEGORIZATION OF PARCELS

Each Fiscal Year, the District Administrator shall identify the current Assessor’s Parcel number for each Assessor’s Parcel within the CFD, and shall categorize each Parcel of Taxable Property as Developed Property or Undeveloped Property. The District Administrator shall also identify the current Acreage of each Parcel by reference to the Stanislaus County Assessor’s Parcel Maps.

C. MAXIMUM ANNUAL SPECIAL TAX

The Maximum Annual Special Tax for all Parcels of Taxable Property within CFD No. 2000-2 for Fiscal Year 2001-02 is $2,468 per Acre. Beginning in January 2002, the Maximum Annual Special
Tax shall be adjusted annually by applying the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Each Fiscal Year, the District Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Annual Special Tax for Taxable Property for such Fiscal Year determined pursuant to Section C;

**Step 2:** If additional revenues are needed to meet the Maintenance Special Tax Requirement after Step 1, the Annual Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Special Tax for Taxable Property for such Fiscal Year determined pursuant to Section C.

The Annual Special Tax for CFD No. 2000-2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes provided, however, that CFD No. 2000-2 may (under the authority of Government Code Section 53340) in any particular case bill the taxes directly to the property owner, off the County tax roll, and the Annual Special Tax will be equally subject to foreclosure if delinquent.

E. ANNEXATION ONE-TIME SPECIAL TAX

A one-time Special Tax shall be levied on property that annexes into CFD No. 2000-2 after the CFD is formed. This “Annexation One-time Special Tax” shall be used to reimburse the landowner who made the initial deposit to the City to cover the costs of forming the CFD. The Annexation One-time Special Tax shall be calculated for each annexing property as follows:

**Step 1.** Add the estimated net developable acres for the annexing property to the estimated net developable acreage for property already within the CFD at the time of annexation;

**Step 2.** Divide the net developable acres within the annexation area by the sum determined in Step 1 to determine the annexing property’s share of the total net developable acreage within the CFD;
Step 3. Multiply the quotient determined in Step 2 by either (i) $64,500 in 2000 dollars, which shall increase on January 1, 2001 and on each January 1 thereafter by applying the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) such lower number as shall be determined by the City as the amount that was actually expended to cover the costs of formation of CFD No. 2000-2.

The Annexation One-time Special Tax must be paid prior to approval by the City Council of the resolution approving the annexation. If for any reason the Annexation One-time Special Tax has not been paid for property that has been annexed into the CFD, the Annexation One-time Special Tax shall be subject to an immediate 10% penalty plus interest charges of 1 1/2% as of the first day of the month after the City Council adopted the resolution approving the annexation and on the first day of each month thereafter. Any such delinquent special taxes shall, at the City’s discretion, be placed on the next secured property tax roll along with the Annual Special Tax levied pursuant to Section D above. The amount placed on the roll shall include the 10% penalty and interest charges through the following December 1.

F. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Annual Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982.

G. ENFORCEMENT

If any delinquent Annual Special Taxes are billed off the County tax roll, such Annual Special Taxes shall be subject to an immediate 10% penalty plus interest charges of 1 1/2% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent special taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following December 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract or guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
APPENDIX D

COFFEE-CLARATINA COMMUNITY FACILITIES DISTRICT NO. 2000-2
OF THE CITY OF MODESTO

DETAIL OF EXPENSES TO BE FUNDED BY CFD
## Overview - Storm Drain Basin Expenses

<table>
<thead>
<tr>
<th>Description</th>
<th>Annual Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Median Plantings (25,396 s.f. @ $.61 + 20% contingency)</strong></td>
<td>$18,589.87</td>
</tr>
<tr>
<td><strong>Bikeway Plantings (36,167 s.f. @ $.61 + 20% contingency)</strong></td>
<td>$26,474.24</td>
</tr>
<tr>
<td><strong>Round About Plantings (1,591 s.f. @ $.61 + 20% contingency)</strong></td>
<td>$1,164.61</td>
</tr>
<tr>
<td><strong>Back Up Lot Plantings (2,849 s.f. @ $.61 + 20% contingency)</strong></td>
<td>$2,085.47</td>
</tr>
<tr>
<td><strong>MID power costs ($20/mo. per location * 6 locations * 12 mos.)</strong></td>
<td>$1,440.00</td>
</tr>
</tbody>
</table>

### West Basin

<table>
<thead>
<tr>
<th>Description</th>
<th>Annual Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Crew Leader (12 one-hour visits @ $20.73/hr + 32% benefits)</strong></td>
<td>$328.36</td>
</tr>
<tr>
<td><strong>Supervisor (4 one-hour visits @ $26.02/hr + 32% benefits)</strong></td>
<td>$137.39</td>
</tr>
<tr>
<td><strong>Superintendent (2 one-hour visits @ $33.23/hr + 32% benefits)</strong></td>
<td>$87.73</td>
</tr>
<tr>
<td><strong>Equipment</strong></td>
<td></td>
</tr>
<tr>
<td>1/2 Ton Full Size Pick-Up - Crew Leader (12 hrs x $2.37)</td>
<td>$28.44</td>
</tr>
<tr>
<td>1/2 Ton 4/4 Full Size Pick-up - Supervisor (4 hrs x $2.50)</td>
<td>$10.00</td>
</tr>
<tr>
<td>1/2 Ton Full Size Pick-Up - Superintendent (2 hrs hrs x $2.37)</td>
<td>$4.74</td>
</tr>
<tr>
<td><strong>Fence Repair</strong></td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Maintenance - interior of basin</strong></td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>Annual lab tests</strong></td>
<td>$1,200.00</td>
</tr>
<tr>
<td><strong>Silt excavation, erosion repair for annual improvement maintenance to basin</strong></td>
<td>$9,000.00</td>
</tr>
<tr>
<td><strong>Maintenance of landscaping (at build-out) (includes monthly water charges)</strong></td>
<td>$11,807.51</td>
</tr>
</tbody>
</table>

### East Basin

<table>
<thead>
<tr>
<th>Description</th>
<th>Annual Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Crew Leader (12 one-hour visits @ $20.73/hr + 32% benefits)</strong></td>
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</tr>
<tr>
<td><strong>Supervisor (4 one-hour visits @ $26.02/hr + 32% benefits)</strong></td>
<td>$137.39</td>
</tr>
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<td><strong>Superintendent (2 one-hour visits @ $33.23/hr + 32% benefits)</strong></td>
<td>$87.73</td>
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<tr>
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<td>$1,200.00</td>
</tr>
<tr>
<td><strong>Silt excavation, erosion repair for annual improvement maintenance to basin</strong></td>
<td>$9,000.00</td>
</tr>
<tr>
<td><strong>Maintenance of landscaping (9.5 acres @ $8,181/acre) (includes monthly water charges)</strong></td>
<td>$77,719.50</td>
</tr>
<tr>
<td><strong>Administration (10% of total cost)</strong></td>
<td>$16,587.45</td>
</tr>
</tbody>
</table>

**TOTAL** $182,461.97
Exhibit B
EXHIBIT B

CERTIFICATE OF CITY CLERK

I, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2002-68, the Resolution calling for the Election, adopted on February 12, 2002 by the City Council of the City of Modesto, I did conduct a Special Tax Election for Community Facilities District No. 2000-2(1) on February 19, 2002, and that the election was conducted by mail or in person at the City Hall of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall a special tax with a maximum rate, method of apportionment, and manner of collection as established in the Resolution of Formation adopted at a public hearing held by the City Council of the City of Modesto on January 8, 2002, be levied within the territory proposed to be annexed to Community Facilities District No. 2000-2(1) for the purposes of financing certain public facilities and services as provided in the Resolution?

TOTAL VOTES CAST:  YES 46   NO 0

Dated: February 20, 2002

JEAN ZAHR
City Clerk of the City of Modesto
A RESOLUTION INCREASING THE ENGINEERING AND TRANSPORTATION DIRECTOR'S AUTHORITY LEVEL TO ISSUE CHANGE ORDERS FROM 8% TO 9.5% OF THE ORIGINAL CONTRACT PRICE WITH GEORGE REED, INC. ON THE "SIK ROAD RECYCLE – BRIGGSMORE TO DALE" PROJECT.

WHEREAS, on August 9, 2001, the City Council awarded a $1,558,958.25 contract to George Reed, Inc. to make improvements to Sisk Road between Briggsmore Avenue and Dale Road, and

WHEREAS, the contractor started work on September 13, 2001, and the work is nearly complete, and

WHEREAS, during the course of construction, the contractor was required to perform additional work to construct the project that was not included in the original contract, and

WHEREAS, the estimated final cost of the extra work is approximately $142,000.00, an amount which exceeds the Director’s authority for the project as established by the Council’s change order policy adopted by Resolution No.94-443, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of 8% of the original contract price, or $124,716.66 in this case, and

WHEREAS, increasing the Director’s change order level of authority from 8% to 9.5% is necessary to allow execution of pending change orders for added work associated with completion of the Sisk Road recycling project,

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 8% to 9.5% of the original contract price with George Reed, Inc., for the project entitled “Sisk Road Recycle - Briggsmore to Dale.”
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

ATTEST: JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING THE FISCAL YEAR 2001-02 ANNUAL BUDGET TO FULLY FUND THE SISK ROAD RECYCLE - BRIGGSMORE TO DALE PROJECT

WHEREAS, on August 9, 2001, the City Council awarded a $1,558,958.25 contract to George Reed, Inc. to recycle and overlay Orangeburg Avenue from Evergreen to Briggsmore, Sisk Road from Briggsmore to Whitcomb, Sisk Road from approximately 400’ south of Rumble to Standiford, and Standiford Avenue from Sisk to Dale within the City of Modesto, and

WHEREAS, the contractor was required to perform work not included in the original contract, and

WHEREAS, the extra work resulted in additional funds being required to fully fund the project,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 2001-02 Annual Budget (1) to reduce the appropriation of Gas Tax Funds for the Capital Improvement Project 2300-430-M206 (Kansas Avenue – Emerald to 8th) $32,000, (2) to reduce the appropriation of Gas Tax funds for the Capital Improvement Project 0700-430-L916 (Coldwell Avenue – Tully to 9th) $12,000, and (3) to increase the Gas Tax Fund appropriation to Capital Improvement Project 2300-430-M205 (Sisk Road – Evergreen to Dale) $44,000.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad, Frohman

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: PRECISE PLAN FOR AREA NO. 13 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY BOUNDED BY ROSELLE AVENUE, HILLGLEN AVENUE, MILLBROOK AVENUE AND KODIAK DRIVE, IN THE VILLAGE ONE SPECIFIC PLAN AREA (GARRAD MARSH)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Garrad Marsh for a Precise Plan for Area No. 13 of the Village One Specific Plan, property bounded by Roselle Avenue, Hillglen Avenue, Millbrook Avenue and Kodiak Drive, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay Zone, SP-O, and

WHEREAS, the City's Community Development Department reviewed the proposed project to determine if said project might have a significant effect on the environment, and

WHEREAS, City staff has prepared an Initial Study, Environmental Assessment No. EA/CDD 2001-86, which concluded that the proposed project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and
WHEREAS, the Planning Commission, by Resolution No. 2002-04, adopted on January 7, 2002, and City staff, by a report dated January 22, 2002, from the Community Development Department, recommended to the City Council approval of the Precise Plan for Area No. 13 of the Village One Specific Plan as set forth in said Resolution No. 2002-04, and recommended approval of an Amendment to Section 12-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay Zone, SP-O, Precise Plan Area No. 13, property bounded by Roselle Avenue, Hillglen Avenue, Millbrook Avenue and Kodiak Drive, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on February 26, 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 2001-86, entitled "City of Modesto Initial Study Precise Plan No. 13 ", for the proposed project, and the Council hereby makes the following findings:

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

2. The project will have no new effects which were not examined in the Program EIR and no new mitigation measures would be required.

3. There are no substantial changes proposed in the project which will require major revisions of the Program EIR.

4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Program EIR.

5. No new information, which was not known and could not have been known at the time the Program EIR was certified as complete, has become available.
6. 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 Program EIR will be sufficient for this project.

7. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

8. The initial study, Environmental Assessment No. EA/CDD 2001-78, provides the substantial evidence to support the above findings.

A copy of said Environmental Assessment No. EA/CDD 2001-86, entitled "City of Modesto Initial Study Precise Plan No. 13", 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 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Fisher, Friedman, Smith, Mayor Sabatino

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Conrad, Frohman

ATTEST: Jean Zahr, City Clerk
(SEAL)

APPROVED AS TO FORM:

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

INITIAL STUDY

EA/CDD NO. 2001-86
I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). This Program EIR analyzed the impacts of build-out of the Village One Specific Plan, which includes the area in which this project is proposed.

Subsequently, on May 24, 1994, the City Council certified a Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Sections 15168(c) and 15182 of the CEQA Guidelines allows the approval of subsequent projects within the scope of the Project EIR without further environmental review, provided the following findings are made:

A. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.

B. The project will have no new effects which were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.

C. There are no substantial changes proposed in the project which will require major revisions of the Village One Specific Plan Program EIR.

D. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR.

E. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

F. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

The purpose of this initial study is to provide the substantial evidence to support the above findings.
II. PROJECT DESCRIPTION

A. Project title:
Precise Plan No. 13

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

C. Contact person and phone number:
Steve Mitchell, Community Development Department, (209) 577-5287

A. Project Location:
The project is located on the east side Roselle Avenue north of Kodiak Drive.

E. Project Sponsor:
Garrad Marsh, 3700 McHenry Av., Modesto, CA 95356

F. General Plan Designation:
Village Residential (VR)

G. Current Zoning:
Specific Plan-Holding (SP-H) Zone

H. Description of Proposed Project:
This is a precise plan in the Village One Specific Plan. The precise plan is to allow approximately 180 single-family units on 49 acres.

I. Surrounding land uses:
The project is bounded on the north by existing ranchette development, on the east by a currently-developing single-family subdivision, on the south and west by vacant land and ranchettes with approved precise plans and tentative subdivision maps.

J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH SECTION 15168(C) FINDINGS

Following is an analysis of how the project is within the scope of the Village One Program EIR and how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, broken down by each impact area identified in the Village One Program EIR:

A. Traffic and Circulation

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity. It also provides a circulation system in accordance with the Specific Plan. Therefore, impacts to traffic and circulation for this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the
B. Degradation of Air Quality

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. Because traffic impacts for this project are within the scope of those in the Village One EIR, air quality impacts are also within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

C. Generation of Noise

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity, and the precise plan incorporates a requirement for a sound wall adjacent to Roselle Avenue, a future arterial street, in accordance with the Specific Plan. Therefore, the noise impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

D. Vegetation and Wildlife

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The project is located in an area analyzed by the Village One EIR for residential development. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

E. Land Use

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the land use impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

F. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to population, employment and housing of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

G. Urban Design and Visual Quality

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The development proposed by this precise plan is consistent with the Village One Specific Plan in terms of land use, intensity and urban design. Therefore, the impacts to urban design and visual quality of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR,
as modified by the Supplemental EIR.

H. Geology and Soils

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to geology and soils of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

I. Hydrology

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and includes the necessary storm drainage systems required by the Specific Plan. Therefore, the impacts to hydrology of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

J. Public Services

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and would not create any additional demand for public services that are in excess of those analyzed by the Village One EIR. Therefore, the impacts to public services of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

K. Fiscal Impacts

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the fiscal impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

L. Cumulative Impacts

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use intensity. Therefore, the cumulative impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.
M. Growth-Inducing Impacts

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the growth-inducing impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

IV. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS

A. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

B. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there is no new information, which was not known at the time the Program EIR was certified, has become available, that would change the conclusions of the EIR.

V. MITIGATION MEASURES

Since the project is within the scope of the Village One Specific Plan Program EIR, there are no additional mitigation measures needed for the project. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

VI. CONCLUSIONS/DETERMINATIONS OF FINDINGS

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.

2. The project will have no new effects which were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.

3. There are no substantial changes proposed in the project which will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

4. There are no substantial changes occurring with respect to the circumstances under
which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

5. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

6. 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 Program EIR will be sufficient for this project.

7. All feasible mitigation measures set forth in the Program EIR which are appropriate to the project shall be incorporated in the project.

8. This initial study provides the substantial evidence to support the above findings.

Signature:

Steve Mitchell,
Principal Planner
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: PRECISE PLAN FOR AREA NO. 9 AND CONCURRENT REZONING FROM SP-H TO SP-O, PROPERTY LOCATED AT THE SOUTH-WEST CORNER OF SYLVAN AVENUE AND THE FUTURE CLAUS ROAD EXPRESSWAY IN THE VILLAGE ONE SPECIFIC PLAN AREA (WAYNE BRIGMAN)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been superseded and updated by the 1994 Supplemental EIR, adopted on May 24, 1994, which Supplemental EIR incorporates by reference technical studies and background material from the 1990 Program EIR, and

WHEREAS, an application has been filed by Wayne Brigman for a Precise Plan for Area No. 9, property located at the southwest corner of Sylvan Avenue and the future Claus Road expressway, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay Zone, SP-O, and

WHEREAS, the City's Community Development Department reviewed the proposed project to determine if said project might have a significant effect on the environment, and

WHEREAS, City staff has prepared an Initial Study, Environmental Assessment No. EA/CDD 2001-82, which concluded that the proposed project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and
WHEREAS, the Planning Commission, by Resolution No. 2002-06, adopted on January 7, 2002, and City staff, by a report dated January 31, 2002, from the Community Development Department, recommended to the City Council approval of Precise Plan Area No. 9 of the Village One Specific Plan as set forth in said Resolution No. 2002-06, and recommended approval of an Amendment to Section 12-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay Zone, SP-O, Precise Plan Area No. 9, property located property located at the southwest corner of Sylvan Avenue and the future Claus Road expressway, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on February 26, 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 2001-82, entitled "City of Modesto Initial Study Precise Plan No. 9 and Village Highlands No. 7 Vesting Tentative Subdivision Map", for the proposed project, and the Council hereby makes the following findings:

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

2. The project will have no new effects that were not examined in the Program EIR and no new mitigation measures would be required.

3. There are no substantial changes proposed in the project that will require major revisions of the Program EIR as amended by the Village One Supplemental EIR.

4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
5. No new information, which was not known and could not have been known at the time the Program EIR was certified as complete, has become available.

6. There are no specific features that are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.

7. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

8. The initial study, Environmental Assessment No. EA/CDD 2001-82, provides the substantial evidence to support the above findings.

A copy of said Environmental Assessment No. EA/CDD 2001-82, entitled "City of Modesto Initial Study Precise Plan No. 9 and Village Highlands No. 7 Vesting Tentative Subdivision Map ", 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 26th day of January, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Smith, Mayor Sabatino

NOES: Councilmembers: Serpa

ABSENT: Councilmembers: Frohman

ATTEST: 

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
EXHIBIT "A"

INITIAL STUDY

EA/CDD NO. 2001-82
City of Modesto
Initial Study

Precise Plan No. 9 and
Village Highlands No. 7 Vesting Tentative Subdivision Map

EA/CDD 2001-82
December 17, 2001

I. PURPOSE

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan (SCH# 90020181). This Program EIR analyzed the impacts of build-out of the Village One Specific Plan, which includes the area in which this project is proposed.

Subsequently, on May 24, 1994, the City Council certified a Supplement to the Village One Program EIR. This supplement updated and modified the original EIR.

Sections 15168(c) and 15182 of the CEQA Guidelines allow the approval of subsequent projects within the scope of the Program EIR without further environmental review, provided the following findings are made:

A. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.

B. The project will have no new effects that were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.

C. There are no substantial changes proposed in the project that will require major revisions of the Village One Specific Plan Program EIR.

D. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR.

E. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

F. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

The purpose of this initial study is to provide the substantial evidence to support the above findings.
II. PROJECT DESCRIPTION

A. Project title:
Precise Plan No. 9 and Village Highlands No. 7 Vesting Tentative Subdivision Map

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

C. Contact person and phone number:
Brad Wall, Community Development Department, (209) 577-5287

D. Project Location:
The project is located at the southwest corner of Sylvan Avenue and Claus Road.

E. Project Sponsor:
O'Dell Engineering, 1101 M Street, Modesto CA 95354

F. General Plan Designation:
Village Residential (VR)

G. Current Zoning:
Specific Plan-Holding (SP-H) Zone

H. Description of Proposed Project:
This is a precise plan and subdivision map in the Village One Specific Plan area to create a 62-lot single-family subdivision on approximately 15 acres. A significant portion of this area will be dedicated for the future Claus Road expressway, at some point in the future.

I. Surrounding land uses:
The project is bounded on the north by vacant lands in unincorporated Stanislaus County, on the east by Claus Road and the future Village One business park, and on the south and west by existing single-family subdivisions.

J. Other public agencies whose approval is required: None

III. ANALYSIS OF CONFORMANCE WITH SECTION 15168(C) FINDINGS

Following is an analysis of how the project is within the scope of the Village One Program EIR and how there are no substantial changes proposed in the project which would require major revisions of the Village One Program EIR, broken down by each impact area identified in the Village One Program EIR:

A. Traffic and Circulation

Impacts to traffic and circulation are discussed on pages III-40 through III-44 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity. It also provides a circulation system in accordance with the Specific Plan. Therefore, impacts to traffic and circulation for this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.
B. Degradation of Air Quality

Impacts to air quality are analyzed on pages III-45 through III-54 of the Supplemental EIR. Air quality impacts for this project are directly related to traffic impacts. Because traffic impacts for this project are within the scope of those in the Village One EIR, air quality impacts are also within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

C. Generation of Noise

Noise impacts are analyzed on pages III-55 through III-67 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in land use and intensity, and the project includes a masonry sound wall adjacent to Claus Road, as required by the Specific Plan. Therefore, the noise impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

D. Vegetation and Wildlife

Impacts to vegetation and wildlife are analyzed on pages III-68 through III-79 of the Supplemental EIR. The project is located in an area analyzed by the Village One EIR for residential development. Therefore, the impacts to vegetation and wildlife of this project are consistent with the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

E. Land Use

Land use impacts are analyzed on pages III-80 through III-94 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the land use impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

F. Population, Employment and Housing

Impacts to population, employment and housing are analyzed on pages III-95 through III-99 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to population, employment and housing of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

G. Urban Design and Visual Quality

Impacts to urban design and visual quality are analyzed on pages III-101 through III-103 of the Supplemental EIR. The development proposed by this subdivision is consistent with the Village One Specific Plan in terms of land use, intensity and urban design, and includes landscaped setbacks along the surrounding streets, as required by the Specific Plan. Therefore, the impacts to urban design and visual quality of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.
H. Geology and Soils

Impacts to geology and soils are analyzed by the Supplemental EIR on pages III-105 through III-108. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the impacts to geology and soils by this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

I. Hydrology

Hydrology impacts are analyzed on pages III-109 through III-119 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and includes the necessary storm drainage systems required by the Specific Plan. Therefore, the impacts to hydrology of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

J. Public Services

Impacts to public services are analyzed on pages III-121 through III-158 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity, and would not create any additional demand for public services that are in excess of those analyzed by the Village One EIR. Therefore, the impacts to public services of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

K. Fiscal Impacts

Fiscal impacts are analyzed on pages III-159 through III-160 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the fiscal impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

L. Cumulative Impacts

Cumulative impacts are analyzed on page III-161 of the Supplemental EIR. The project is consistent with the Village One Specific Plan in terms of land use intensity. Therefore, the cumulative impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.

M. Growth Inducing Impacts

Growth inducing impacts are analyzed by the Supplemental EIR on page III-161. The project is consistent with the Village One Specific Plan in terms of land use and intensity. Therefore, the growth-inducing impacts of this project are within the scope of the analysis presented in the Village One Specific Plan Program EIR, as modified by the Supplemental EIR.
IV. ANALYSIS OF CONFORMANCE WITH SECTION 15182 FINDINGS

A. No substantial changes are occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there have been no substantial changes with respect to the circumstances under which this project is being undertaken which will require major revisions in the Village One Program EIR.

B. No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

The Village One Program EIR was certified by the Modesto City Council on September 11, 1990, and the Supplemental EIR was certified on May 24, 1994. Since then, there is no new information, which was not known at the time the Program EIR was certified, has become available, that would change the conclusions of the EIR.

V. MITIGATION MEASURES

Since the project is within the scope of the Village One Specific Plan Program EIR, there are no additional mitigation measures needed for the project. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

VI. CONCLUSIONS/DETERMINATIONS OF FINDINGS

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA.

2. The project will have no new effects that were not examined in the Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR ("Program EIR") and no new mitigation measures would be required.

3. There are no substantial changes proposed in the project that will require major revisions of the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.
4. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Village One Specific Plan Program EIR as amended by the Village One Supplemental EIR.

5. No new information, which was not known and could not have been known at the time the Village One Specific Plan Program EIR was certified as complete, has become available.

6. There are no specific features that are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Program EIR will be sufficient for this project.

7. All feasible mitigation measures set forth in the Program EIR that are appropriate to the project shall be incorporated in the project.

8. This initial study provides the substantial evidence to support the above findings.

Signature: [Signature]

Brad Wall,
Associate Planner
A RESOLUTION DESIGNATING 1418-1430 I STREET AS A MODESTO LANDMARK PRESERVATION SITE (OWNER: TONI WHITLEY).

WHEREAS, Chapter 10 of Title 9 of the Modesto Municipal Code establishes Landmark Preservation Site status as a way to recognize, preserve enhance and perpetuate significant landmarks in the community, and

WHEREAS, a public hearing was held on October 29, 2001 at the McHenry Museum, 1402 I Street, Modesto, California, in which the Landmark Preservation Commission found and recommended in their Resolution No. 2001-1, that the property at 1418-1430 I Street is eligible for designation as a Landmark Preservation Site for the following reasons:

(1) The location and setting is compatible with future preservation and use.

(2) The physical condition is such that preservation maintenance or adaptive use is economically feasible.

(3) The distinguishing characteristics of significance are for the most part original and intact or capable of restoration.

(4) The existing or proposed use is compatible with the preservation and maintenance of the site.

and

WHEREAS, the Human Services Committee met on February 6, 2002, and supported the Landmark Preservation Commission recommendation, and

WHEREAS, after a public hearing held on February 26, 2002, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Council found and determined that the property at 1418-1430 I Street is eligible for designation as a Landmark Preservation Site for the reasons set forth by the Landmark Preservation Commission,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property located at 1418-1430 I Street is more particularly described in Exhibit “A” attached hereto and incorporated herein by reference.
BE IT FURTHER RESOLVED that the property at 1418-1430 I Street has architectural significance as a fine example of a neoclassical building from the early 1900's and is hereby designated a Landmark Preservation Site for the following reason:

Architectural significance – Possessing distinctive characteristics of a style, place, period, method or materials of construction, builder or architect.

This neoclassical, two-story, rectangular apartment building has stucco walls, a flat roof, and a molded, boxed cornice with bed molding only on the front. There is a straight buttress covering both sides of each front corner and rising above the roof parapet like a chimney. Two stringcourses at the floor level of each story run around the front and sides and pass over these two buttresses.

Along the front, which extends half a block, are four entrances at regular intervals. Each has a tiled, gabled hood with a crocket at the end of the peak, resting on three beams and covering a recessed vestibule with a pilaster on each side of the rectangular entrance. In the vestibule are four doors, each with a rectangular window and sill with dentils under it. Outside the vestibule under the hood is a cement stoop and straight double stairs with four steps. A low wall lies in front of the stoop and slants down the sides of the stairs.

All the windows, including the small basement windows, are recessed under segmental arches and have rectangular sashes with wooden frames that fill the curved space under the arches.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder’s Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Friedman, Serpa, Smith, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Frohman

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

Attest: JEAN ZAHR, City Clerk
**HISTORIC RESOURCES INVENTORY**

**Identification**

1. Common name: **Miller Apartments**
2. Historic name: **Fox Apartments**
3. Street or rural address: **1418 - 30 I Street**
   - City: Modesto
   - Zip: 95354
   - County: Stanislaus
4. Parcel number: **105-13-01**
5. Present Owner: **Toni Whitely**
   - Address: **11930 Horseshoe Rd.**
   - City: Oakdale, CA
   - Zip: 95361
   - Ownership: Public
6. Present Use: **Apartments**
   - Original use: **Apartments**

**Description**

7a. Architectural style: **Neoclassical**
7b. Briefly describe the present physical description of the site or structure and describe any major alterations from its original condition: This 2 story, rectangular apartment building has stucco walls, a flat roof, and a molded, boxed cornice with bed molding only on the front. There is a straight buttress covering both sides of each front corner and rising above the roof parapet like a chimney. Two stringcourses at the floor level of each story run around the front and sides and pass over these 2 buttresses. Along the front, which extends half a block, are 4 entrances at regular intervals. Each has a tiled, gabled hood with a crochet at the end of the peak, resting on 3 beams and covering a recessed vestibule with a pilaster on each side of the rectangular entrance. In the vestibule are 4 doors, each with a rectangular window and sill with dentils under it. Outside the vestibule under the hood is a cement stoop and straight double stairs with 4 steps. A low wall lies in front of the stoop and slants down the sides of the stairs. All the windows, including the small basement windows, are recessed under segmental arches and have rectangular sashes with wooden frames that fill the curved space under the arches.

8. Construction date:
   - Estimated: ______
   - Factual: **1912**

9. Architect: **Unknown**

10. Builder: **Unknown**

11. Approx. property size (in feet):
   - Frontage: **140**
   - Depth: **100**
   - or approx. acreage: ______

12. Date(s) of enclosed photograph(s):
   - May 1984
13. Condition: Excellent X Good ____ Fair ____ Deteriorated ____ No longer in existence ____

14. Alterations: None apparent

15. Surroundings: (Check more than one if necessary) Open land ____ Scattered buildings ____ Densely built-up X Residential ____ Industrial ____ Commercial X Other: ______________________________

16. Threats to site: None known X Private development ____ Zoning ____ Vandalism ____ Public Works project ____ Other: ______________________________

17. Is the structure: On its original site? X Moved? ______ Unknown? ______

18. Related features: None

SIGNIFICANCE

19. Briefly state historical and/or architectural importance (include dates, events, and persons associated with the site.)

This building was originally known as the Foy Apartments named after the first owner. When opened in 1912 these sixteen studio units were advertised as the most modern apartments in Modesto. Each apartment was equipped with two Murphy beds, one behind a leaded-glass China buffet in the dining room and the other behind a beveled wall mirror in the bedroom. The fold-away Murphy bed was the innovative creation of William A. Murphy in 1900.

The building was purchased in 1917 by G. Lester James who owned it until 1942 when it was sold to Mr. and Mrs. Miller. The Miller Apartments have recently undergone a change of ownership as well as extensive renovation.

20. Main theme of the historic resource: (If more than one is checked, number in order of importance.)

Architecture ______ Arts & Leisure ______
Economic/Industrial ______ Exploration/Settlement ______
Government ______ Military ______
Religion ______ Social/Education ______

21. Sources (List books, documents, surveys, personal interviews and their dates).

Modesto City Directories 1911-41
Modesto Bee news article May 1984

22. Date form prepared ______ Mar. 1984
By (name) Sally Malgard/Dena Boer
Organization S. C. H. S.
Address: P. O. Box 4363
City Modesto, CA Zip 95352
Phone: 527-3511/543-0202

Locational sketch map (draw and label site and surrounding streets, roads, and prominent landmarks):
RECENT PHOTO OF SITE
(1418 - 1430 I STREET)
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-96

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF
FORMATION, ESTABLISHING COMMUNITY FACILITIES DISTRICT NO.
2002-1 (NORTHPOINTE), AUTHORIZING THE LEVY OF A SPECIAL TAX
WITHIN THE DISTRICT, PRELIMINARILY ESTABLISHING AN
APPROPRIATIONS LIMIT FOR THE DISTRICT, AND CALLING AN
ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE
SPECIAL TAX AND THE ESTABLISHMENT OF THE APPROPRIATIONS
LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT

WHEREAS, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5
(commencing with Section 53311) of the California Government Code, commonly
known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), proceedings
for the establishment of a community facilities district may be instituted by the adoption
by the legislative body of a resolution of intention to establish the community facilities
district, and

WHEREAS, this Council also determines that it is in the best interests of the City
that the above-mentioned community facilities district be established pursuant to Section
53313 of the Act in order to pay for certain services (the “Services”), more particularly
described in Exhibit “A”, and

WHEREAS, in the event the community facilities district (“District”) is
established, it is the intention of the Council to finance the costs of the Services through
the levy of a special tax therein to be approved at an election to be held within the
boundaries of the District, and

WHEREAS, there have been submitted to the Council proposed local goals and
policies concerning the use of the Act, and

WHEREAS, Pelandale Development LLC, a California Limited Liability
Company, is the owner of at least 10% of the property in the proposed community
facilities district, have filed with the City Clerk of the City of Modesto (the “City”) a
petition, requesting the City Council (the “Council”) to form Community Facilities
District No. 2002-1 of the City (the “District”), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”) in order: (i) to finance certain services (the “Services”), which are described in Exhibit “A” attached hereto; and

WHEREAS, the Council of the City did, on January 22, 2002, adopt its Resolution No. 2002-30, resolution of intention to establish the District, and levy a special tax therein, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), and

WHEREAS, Resolution No. 2002-30 (1) describing the proposed boundaries of the District, the name of the District, and the types of services (the "Services") proposed to be financed by the District, (2) providing that, except where funds are otherwise available to pay for the Services, including the incidental expenses thereof, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the boundaries of the District, (3) specifying the rate, method of apportionment, and manner of collection of the special tax in sufficient detail to allow each landowner or resident within the proposed District to estimate the maximum amount that he or she will have to pay, and (4) setting a hearing thereon, is incorporated herein by this reference, and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the affidavit of publication on file with the City Clerk, and

WHEREAS, this Council on February 26, 2002, held the public hearing as required by law relative to the proposed formation of the District, the levy of the special tax, and all other matters set forth in Resolution No. 2002-30, and

WHEREAS, prior to the hearing a map of the proposed boundaries of the District, entitled "Proposed Boundaries of CFD District No. 2002-1 (NorthPointe CFD No. 2002-1)" was recorded pursuant to Section 3111 of the California Streets and Highways Code in the office of the County Recorder of the County of Stanislaus, in Volume 3 of Maps of
Assessment and Community Facilities Districts, at page 56, and

WHEREAS, prior to the hearing a Public Report (the "Report") containing a description of the Services required to adequately meet the needs of the District and an estimate of the cost of providing the Services, was filed with this Council as a part of the record of the hearing and duly considered by this Council, and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the formation of the District, the levy of the special tax, and all other matters set forth in Resolution No. 2002-30, including all interested persons or taxpayers for or against the establishment of the District, the extent of the District, or the furnishing of specific types of Services, were heard and considered, and a full and fair hearing was held thereon, and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters relating to the formation of the District, the levy of the special tax, and all other matters set forth in Resolution No. 2002-30, and

WHEREAS, Ryan D. Carrel, R.C.E. 61619, has certified there are less than twelve (12) registered voters residing in the District; accordingly, the qualified electors in the District are the landowners, and

WHEREAS, written protests against the establishment of the District, the furnishing of specified type or types of Services within the District as listed in the Report, or the levying of the special tax have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (½) or more of the area of land in the territory proposed to be included in the District and not exempt from this special tax,

NOW THEREFORE, BE IT RESOLVED, that the Council hereby finds and determines as follows:

SECTION 1: The foregoing recitals are true and correct.

SECTION 2: The document entitled "Policies and Procedures for the Use of Mello-Roos
Community Facilities Act of 1982", ["Policies & Procedures"] (a copy of which is on file with the City Clerk), adopted by the Council on September 3, 1996, and as amended from time to time, was adopted by the City Council, pursuant to section 53312.7 of the Act, as the local goals and policies concerning the use of the Act by this City Council. It is the intention of the City Council that its Policies & Procedures be adhered to to the greatest extent practicable with respect both to the formation and administration of the District, and that such administration be vested in the District Administrator as the governing board of a local agency within the meaning of Section 53317(g) and (h) of the Act, and in accordance with the provisions of the Policies & Procedures as they may be amended from time to time.

SECTION 3: The proposed special tax to be levied in the District has not been precluded by majority protest pursuant to Section 53324 of the Act. All protests to the establishment of the District, the extent thereof, or the furnishing of the Services proposed therefor, or the levy of the special tax proposed to be levied in the District, are hereby overruled.

SECTION 4: As proposed in Resolution No. 2002-30, a community facilities district is hereby established pursuant to the Act, designated "Community Facilities District No. 2002-1."

SECTION 5:

(a) The Services to be financed by the District are set forth in Exhibit "A" attached hereto and incorporated by this reference, including expenses incidental thereto as authorized by Section 53313 of the Act. The proposed Services are governmental services which the City is authorized by law to provide since they are in addition to those provided in the territory of the District before the District was created.

(b) The Services are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.
SECTION 6: The Report related to the Services shall be a part of the record in these proceedings.

SECTION 7:

(a) As stated in Resolution No. 2002-30, except where funds are otherwise available, it is the intention of this Council, subject to the approval of the qualified electors of the District, to levy a special tax sufficient to finance the Services and to pay any other costs or expenses of the District authorized by the Act, secured by recordation of a continuing lien against all nonexempt real property in the District, and that a maintenance tax shall be levied annually within the boundaries of the District.

(b) The rate, method of apportionment, and manner of collection of the special tax, in sufficient detail to allow each landowner or resident within the District to estimate the annual maximum amount that he or she will have to pay, is described in Exhibit “A” hereto and by this reference incorporated herein.

(c) It is the intention of the City Council that in the event all of the subject taxes are not approved by the qualified electors of the District at an election to be held subsequent to its approval of this resolution, that then, and in that event, the formation of the District approved herein shall be a nullity, and void from the date this resolution is approved.

SECTION 8: The description of the proposed voting procedure, as set forth in Resolution No. 2002-30, is incorporated herein by this reference, and shall be the voting procedure to be used in these proceedings.

SECTION 9: The office of the District Administrator is hereby designated as the office, department or bureau which will be responsible for annually preparing the current roll of special tax levy obligations by assessor’s parcel number on nonexempt property within the District and which will be responsible for estimating future special tax levies. The name, address, and telephone number of the office of the Director Administrator, and the person responsible for administering the District, is as follows:
Such office is hereby directed to establish procedures to promptly respond to inquiries concerning current and future estimated tax liability pursuant to Section 53340.2 of the Act.

SECTION 10: The District Administrator will be responsible for providing the proposed Services to be financed by the District. The District Administrator has caused to be prepared and filed with the Council a Public Report containing:

(a) a brief description of the Services by type which will in the District Administrator's opinion be required to adequately meet the needs to the District;
(b) an estimate of the cost of providing the Services; and
(c) an estimate of the fair and reasonable cost of incidental expenses (as defined in Section 53317(e)) to be incurred in connection with providing the Services, including said costs and advances or work-in-kind, including but not limited to planning and engineering, as provided in Sections 53314.9, 53313.5(g) and 53318(d) of the Act.

The report shall be made a part of the record herein.

SECTION 11:

(a) The Council having adopted this Resolution of Formation establishing the District and submitting the levy of the special tax to the qualified electors of the District in a special election, such election shall be held at least ninety (90) days, but not more than one hundred eighty (180) days following the adoption of the resolution of formation. The City Clerk as the designated election official shall, within three (3) business days after the adoption of the resolution of formation, obtain a certified copy thereof, a certified map or sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow her to determine the boundaries of the District, and the assessor's parcel numbers for the land within the District.
(b) If the election is to be held less than one hundred twenty-five (125) days after the adoption of the resolution of formation, the concurrence of the City Clerk shall be required.

(c) Such time limits, or requirements pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the City Clerk.

(d) If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the proposed District for each of the ninety (90) days preceding the close of the hearing, the vote shall be by the registered voters of the proposed District, with each voter having one vote.

(e) Otherwise, the vote shall be by the landowners of the proposed District and each landowner who is the owner of record at the close of the hearing, or the authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land that such landowner owns within the proposed District. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

(f) Ballots for the special election authorized may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The City Clerk may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the City Clerk not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

(g) Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the California Elections Code. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners, and shall be so stated in the order for the election.

(h) If the election is to be conducted by mail ballot, the City Clerk shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in landowner elections shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope; (4) the printed name and
signature of the voter; (5) the address of the voter; (6) the date of signing 
and the place of execution of the declaration described in (3) above; and 
(7) a notice that the envelope contains the official ballot and is to be 
opened only by the canvassing board.

The procedures set forth in this Section 15 for conducting the consolidated 
special election may be modified as the Council may determine to be 
necessary or desirable by a resolution subsequently adopted by the 
Council.

SECTION 12: Upon a determination by this Council, after the canvass of the returns of 
the election contemplated in Sections 11 and 12 hereof, that at least two-
thirds (2/3) of the votes cast upon the question of levying the special tax 
were in favor thereof, the City Clerk shall record the notice of special tax 
lien provided for in Section 3114.5 of the California Streets and Highways 
Code. Upon recordation of the notice of special tax lien pursuant to 
Section 3114.5 of the California Streets and Highways Code, a continuing 
lien to secure each levy of the special tax shall attach to all nonexempt real 
property in the District, and this lien shall continue in force and effect until 
collection of the tax by this Council ceases.

SECTION 13: All prior proceedings taken with respect to the establishment of the 
District were valid and in conformity with the requirements of the Act.

SECTION 14: In accordance with Section 53325.7 of the Act, the annual appropriations 
limit of the District, as defined by subdivision (h) of Section 8 of Article 
XIII B of the California Constitution, is hereby preliminarily established at 
$1,000,000.00 and such annual appropriations limit shall be submitted to 
the voters of the District as hereafter provided. The proposition 
establishing the appropriations limit shall become effective if approved by 
the qualified electors voting thereon and shall be adjusted in accordance 
with the applicable provisions of Section 53325.7 of the Act.
SECTION 15:

(a) This Council hereby calls a special election and submits the question of levying the special tax, and the establishment of the annual appropriations limit for the District in connection therewith, to the qualified electors within the District, in accordance with and subject to the Act, the terms of which shall, unless waived as herein provided, be applicable to such election. The propositions shall be combined in a single ballot measure, substantially in the form set forth in Exhibit “B” hereto and by this reference incorporated herein.

(b) Fewer than twelve (12) persons have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, for the purposes of these proceedings, the qualified electors shall be the landowners within the District; the vote shall be by the landowners or their authorized representatives; each having one vote for each acre or portion thereof that such landowner owns in the District as of the close of the hearing; and the ballots for the special election shall be distributed by mail with return postage prepaid or by personal service to each such landowner; all as provided in Section 53326 of the Act.

(c) The Council hereby designates the City Clerk and the City Clerk hereby agrees to serve as the election official to conduct the election. The Stanislaus County Registrar of Voters has concurred in the City’s designation of its City Clerk as the election official. The shortening of the election as herein provided is hereby concurred in by the City Clerk.

(d) If the City Clerk shall have received appropriate waivers of time limits and other requirements pertaining to the conduct of the election by all of the owners of land included in the District (collectively, the "Landowners") on or before the 6th day of March, 2002, the election shall be held on the 6th day of March, 2002, or on such earlier date on which the City Clerk shall have received such waivers and completed ballots from all Landowners. Otherwise, the election shall be held on the first Tuesday after that date which is 90 days after the date this Resolution is adopted.

(e) Unless waived with the consent of all the Landowners, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in Section 53327(b) of the Act. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

(f) The publication of this resolution as notice of the special election is hereby waived provided the City Clerk shall receive consent to such waiver from the landowners.
SECTION 16: This Council hereby further directs that at the election at which the question of levying the special tax and the establishment of an appropriations limit in connection therewith is submitted to the qualified electors within the District the question of levying the special tax shall be combined in one ballot proposition with the question of establishing an appropriations limit for the District, all as provided by the Act. In addition, the giving of statutory notice of the election is waived if the City Clerk shall receive unanimous consent to such waiver from the Landowners.

SECTION 17: If two-thirds (2/3) of the votes cast upon the question of levying the special tax are cast in favor of levying the tax, as determined by this Council after the canvass of the returns of such consolidated election, this Council may levy the special tax within the territory of the District in the amount and for the purposes as specified in this Resolution. The special tax may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special tax may be levied at a lower rate.

SECTION 18: The City Clerk, as the designated election official, shall, within three business days after its adoption, obtain a certified copy of this Resolution; the City Clerk has previously been provided with a map of the boundaries of the District, a sufficient description from which to determine the boundaries of the District, and the assessor’s parcel numbers for the land within the District.

SECTION 19: The Council hereby determines that the formation of the proposed District is categorically exempt from the provisions of C.E.Q.A. pursuant to Section 15320 of the C.E.Q.A. guidelines. The Council further determines that the environmental impacts of provision of the Services has been adequately addressed by the Environmental Impact Report (SCH No. 94082005) prepared for Kiernan Business Park and the Carver-Bangs.
Specific Plan Area, adopted by this Council, and that said Environmental Impact Report was prepared pursuant to Section 21157.5 of CEQA and finds that although the project could have a significant effect on the environment, there would not be a significant effect because appropriate mitigation measures have been added to the project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2002, by Councilmember Friedman, 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, Serpa, Smith, Mayor Sabatino
NOES: Councilmembers: None
ABSENT: Councilmembers: FROHMAN

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
EXHIBIT “A”

Public Report
CITY OF MODESTO
NORTHPOINTE
COMMUNITY FACILITIES DISTRICT NO. 2002-1

CFD REPORT

January 2, 2002

Prepared By:
Goodwin Consulting Group, Inc.
701 University Avenue, Suite 225
Sacramento, CA 95825
(916) 561-0890
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>II. Structure of Community Facilities District No. 2002-1</td>
<td>1</td>
</tr>
<tr>
<td>A. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>B. Boundaries of NorthPointe CFD</td>
<td>1</td>
</tr>
<tr>
<td>C. CFD Special Tax Structure</td>
<td>2</td>
</tr>
<tr>
<td>III. Description of Services and Expenses to be Funded by CFD No. 2002-1</td>
<td>2</td>
</tr>
</tbody>
</table>

**Appendices**

- Appendix A: CFD Boundary Map
- Appendix B: Rate and Method of Apportionment of Special Tax
- Appendix C: Services to be Funded by CFD No. 2002-1
I. INTRODUCTION

On April 1, 1997, the City Council of the City of Modesto approved the Kiernan Business Park Specific Plan which sets forth a plan of development for approximately 614 acres that were, at that time, located adjacent to the City's northern border, east of Highway 99 and south of Kiernan Avenue in a portion of unincorporated Stanislaus County. To date, approximately 250 acres within the Specific Plan area have been annexed into the City, of which almost 55 of these acres are included within the NorthPointe project.

The intent of the Kiernan Business Park Specific Plan is to provide for the development of new business park and industrial uses, which will assist in implementing the City's long-range objectives to enhance its local economy, generate jobs for residents, and create a better jobs/housing balance. The NorthPointe project has already furthered these objectives by securing Costco and Lowe's as tenants.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 2002-1

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

A resolution was adopted by the Modesto City Council stating its intention to form CFD No. 2002-1. After a public hearing and a successful election by the landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of NorthPointe CFD

The boundaries of the CFD include the two assessor's parcels on which Costco and Lowe's are located, as well as six additional assessor's parcels which are anticipated for future commercial and industrial development. Assessor's parcel number 078-14-43 is included within the boundaries of CFD No. 2002-1 but will not be subject to the levy of special taxes until a building permit for new construction on the parcel has been issued by the City. This Parcel is identified as "Zone 2" for purposes of the special tax levy, as discussed further below. The other parcels within the CFD make up Zone 1 for purposes of the Rate and Method of Apportionment of Special Tax. A copy of the boundary map for CFD No. 2002-1 is included as Appendix A of this Report.
C. **CFD Special Tax Structure**

Each year a special tax will be levied and collected from parcels within the CFD to pay costs associated with the installation and maintenance of landscaping of a storm drain basin, maintenance of the basin and access road, and replacement of a storm drain pump station. The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix B of this report.

As explained in the RMA, two different special taxes will be levied within the CFD. First, a "One-Time Special Tax" will be levied to pay for the initial installation of landscaping around the storm drain basin, installation of water service and meter, CFD formation costs, and administration and contingency associated with these costs. The One-Time Special Tax will be levied on all property in the CFD except property within Zone 2, which is currently identified by Assessor's Parcel number 078-14-43. The maximum One-Time Special Tax that can be levied within Zone 1 of the CFD is $3,859 per acre. In addition, an "Annual Special Tax" will be levied on all property in the CFD, including property in Zone 2 once a building permit for new construction has been issued for property within Zone 2. Each Fiscal Year, the Annual Special Tax will be levied up to the amount needed to pay authorized expenses of the CFD; such amount will be identified in a budget set forth by the District Administrator. The maximum Annual Special Tax for fiscal year 2001-02 is $2,005 per acre prior to a building permit being issued within Zone 2 and $1,273 per acre after a permit is issued in Zone 2.

A portion of the Annual Special Tax is being collected to create a sinking fund for replacement of the storm drain pump station. The sinking fund portion of the Annual Special Tax will not escalate in future years; the remainder of the Annual Special Tax will increase each year beginning January 2002 by applying the greater of (i) the percentage increase, if any, in the *Engineering News Record* construction cost index for the San Francisco region for the prior twelve month period, or (ii) four percent (4%).

**III. DESCRIPTION OF SERVICES AND EXPENSES TO BE FUNDED BY CFD NO. 2002-1**

The individual line-item service and improvement costs to be funded by CFD No. 2002-1 are identified in Appendix C of this report.
APPENDIX A

NORTHPOINTE COMMUNITY FACILITIES DISTRICT NO. 2002-1
OF THE CITY OF MODESTO

CFD BOUNDARY MAP
APPENDIX B

NORTHPOINTE COMMUNITY FACILITIES DISTRICT NO. 2002-1
OF THE CITY OF MODESTO

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
APPENDIX B

CITY OF MODESTO
NORTHPOINTE COMMUNITY FACILITIES DISTRICT NO. 2002-1

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each Assessor’s Parcel in NorthPointe Community Facilities District No. 2002-1 (herein “CFD No. 2002-1”) shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2002-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2002-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre or Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable final subdivision map or other parcel map recorded at the Stanislaus County Recorder’s Office.

“Annual Special Tax” means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement.

“Assessor’s Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor of the County of Stanislaus designating parcels by Assessor’s Parcel number.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2002-1.

“Developed Property” means, in any Fiscal Year, that a building permit for new construction was issued on or prior to June 30 of the preceding Fiscal Year.
“District Administrator” means the individual(s) designated by the City Council to administer the CFD in accordance with the authority and powers granted by the City Council to said individual(s).

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

“Maintenance Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of CFD No. 2002-1, (iv) cure any delinquencies in the payment of Annual Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) maintain a reasonable reserve, as determined by the District Administrator, for unforeseen expenses, cost overruns, etc.

“Maximum Special Tax” means the maximum Annual Special Tax and the maximum One-Time Special Tax, determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

“One-Time Special Tax” means the special tax set forth in Section C below that will be levied once on all Parcels in the CFD, with the exception of Parcels within Zone 2.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2002-1 which are not exempt from the One-Time Special Tax and Annual Special Tax pursuant to law or Section E below.

“Zone 1” means all Parcels within CFD No. 2002-1 that are not included within Zone 2, as defined below.

“Zone 2” means all property included within the geographic area identified by Assessor’s Parcel number 078-14-43 in Fiscal Year 2001-02.

B. STATUS OF DEVELOPMENT IN ZONE 2

On or about July 1 of each Fiscal Year, the District Administrator shall determine whether any property within Zone 2 has become Developed Property. To the extent the original Assessor’s Parcel included within Zone 2 has been subdivided, all of the subsequent Parcels shall be considered Developed Property if a building permit has been issued for any Parcel within Zone 2.
C. MAXIMUM SPECIAL TAX

1. One-Time Special Tax

The maximum One-Time Special Tax that can be levied on Parcels of Taxable Property within Zone 1 is $3,859 per Acre. After the One-Time Special Tax has been levied on and collected from all Parcels within Zone 1, no additional One-Time Special Tax shall be levied within the CFD unless a separate One-Time Special Tax is approved for property that subsequently annexes into the CFD. No One-Time Special Tax shall be levied on property within Zone 2.

2. Annual Special Tax

Ultimately, all Taxable Property within the CFD shall be subject to an Annual Special Tax that will be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. Until Zone 2 becomes Developed Property, no Annual Special Tax shall be levied on any property within Zone 2. Once Zone 2 becomes Developed Property, all Parcels of Taxable Property within Zone 2 shall be subject to the Annual Special Tax levy in the then current and all future Fiscal Years.

The following maximum rates apply to all Parcels of Taxable Property within CFD No. 2002-1 for each Fiscal Year in which the Annual Special Tax will be levied. The appropriate Maximum Special Tax will be applied depending on whether property within Zone 2 has become Developed Property:

<table>
<thead>
<tr>
<th>Status of Development in Zone 2</th>
<th>Maximum Maintenance Portion of Annual Special Tax (fy 2001-02)</th>
<th>Maximum Sinking Fund Portion of Annual Special Tax</th>
<th>Total Maximum Annual Special Tax (fy 2001-02)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone 2 is not Developed Property</td>
<td>$1,879 per Acre</td>
<td>$126 per Acre</td>
<td>$2,005 per Acre</td>
</tr>
<tr>
<td>Zone 2 is Developed Property</td>
<td>$1,193 per Acre</td>
<td>$80 per Acre</td>
<td>$1,273 per Acre</td>
</tr>
</tbody>
</table>

Beginning in January 2002, the maintenance portion of the maximum Annual Special Tax shall be adjusted annually by applying the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as
published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the maintenance portion of the maximum Annual Special Tax shall become effective on the subsequent July 1. The sinking fund portion of the maximum Annual Special Tax shall not escalate.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. One-Time Special Tax

The One-Time Special Tax shall be levied by the District Administrator through a direct billing or on the County tax roll. If levied through a direct billing, the District Administrator shall identify a date by which the One-Time Special Tax is due, and the One-Time Special Tax shall be immediately delinquent if not paid by such date.

2. Annual Special Tax

Each Fiscal Year, the District Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- **Step 1:** Calculate the total Annual Special Tax revenues that could be collected from Taxable Property within the CFD based on application of the maximum Annual Special Tax rates determined pursuant to Section C above.

- **Step 2:** Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1.

- **Step 3:** If the ratio determined in Step 2 is greater than or equal to 1, levy the Maximum Annual Special Tax determined pursuant to Section C on all Taxable Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

- **Step 4:** Levy the Annual Special Tax against all Parcels of Taxable Property in equal percentages up to 100% of the maximum Annual Special Tax determined pursuant to Section C above.

The Annual Special Tax for CFD No. 2002-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes provided, however, that CFD No. 2002-1 may (under the authority of Government Code Section 53340) in any particular case bill the taxes directly to the property owner off the County tax roll, and the Annual Special Tax will be equally subject to foreclosure if delinquent.
E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no One-Time Special Tax or Annual Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. In addition, no One-Time Special Tax shall be levied in any Fiscal Year on Parcels in Zone 2, and no Annual Special Tax shall be levied on Parcels in Zone 2 until at least one Parcel within Zone 2 becomes Developed Property.

F. ENFORCEMENT

All delinquent One-Time Special Taxes, or delinquent Annual Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1½% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent special taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following December 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract or guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
APPENDIX C

NORTHPOINTE COMMUNITY FACILITIES DISTRICT No. 2001-1
OF THE CITY OF MODESTO

DETAIL OF EXPENSES TO BE FUNDED BY CFD
# NorthPointe CFD No. 2001-1

## Overview - Storm Drain Basin Expenses

(Combination - Rebuild & Replace Pumps)

<table>
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<tr>
<th>Description</th>
<th>One-Time Expense</th>
<th>Annual Expense</th>
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<tbody>
<tr>
<td>Weed Control &amp; Litter Pick-Up (excludes repair for fence)</td>
<td>$2,000.00</td>
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<tr>
<td>Landscape Perimeter - area between MID lateral and basin (7,380 sf x $2.50)</td>
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<td>Landscape Perimeter - Remainder of Basin Area (apprx 10000 sf x $2.50)</td>
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<tr>
<td>Maintain Median (includes maint, replacement, repair) 11,000 sq ft x $.61</td>
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<td>Maintain Perimeter - area between MID lateral and basin (7,380 sf x $.61)</td>
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<td>Maintain Perimeter - Remainder of Basin Area (apprx 10000 sf x $.61)</td>
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<td><strong>Subtotal - Submitted by Recreation &amp; Neighborhoods</strong></td>
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<td>Maintenance Mechanic</td>
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<td>Supervisor</td>
<td></td>
<td>$137.39</td>
</tr>
<tr>
<td>Electrician</td>
<td></td>
<td>$273.24</td>
</tr>
<tr>
<td><strong>Equipment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6RW Service Vehicle</td>
<td></td>
<td>$492.96</td>
</tr>
<tr>
<td>1/2 ton full size pick-up truck</td>
<td></td>
<td>$28.44</td>
</tr>
<tr>
<td>1/2 4x4 full size pick-up truck</td>
<td></td>
<td>$10.00</td>
</tr>
<tr>
<td>1 ton van w/ aerial lift</td>
<td></td>
<td>$44.3</td>
</tr>
<tr>
<td>Materials - turbine oil</td>
<td></td>
<td>$25.0</td>
</tr>
<tr>
<td>Erosion repair &amp; silt excavation</td>
<td></td>
<td>$2,400.00</td>
</tr>
<tr>
<td>Fence Repair</td>
<td></td>
<td>$800.00</td>
</tr>
<tr>
<td>County Property Tax for 5.5 acres (Based on $315,000 paid for 2.5 acres)</td>
<td></td>
<td>$6,930.00</td>
</tr>
<tr>
<td>Annual lab tests</td>
<td></td>
<td>$1,747.00</td>
</tr>
<tr>
<td>MID Power Costs</td>
<td></td>
<td>$4,400.00</td>
</tr>
<tr>
<td>Removal of contaminated dirt</td>
<td></td>
<td>$1,140.00</td>
</tr>
<tr>
<td>Repair Berm/Irrigation Line</td>
<td></td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Maintenance of Access Road</td>
<td></td>
<td>$1,200.00</td>
</tr>
<tr>
<td><strong>Subtotal - Submitted by Operations &amp; Maintenance</strong></td>
<td>$0.00</td>
<td>$25,323.94</td>
</tr>
<tr>
<td>Replacement - Storm Drain Pump Station (20 year life span)</td>
<td></td>
<td>$4,125.00</td>
</tr>
<tr>
<td>Installation of water service and meter</td>
<td></td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Maintenance of water service and meter</td>
<td></td>
<td>$10.00</td>
</tr>
<tr>
<td>Annual cost for water</td>
<td></td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Subtotal - Submitted by Engineering &amp; Transportation</strong></td>
<td>$4,000.00</td>
<td>$5,135.00</td>
</tr>
<tr>
<td>Administration (7% of total cost)</td>
<td></td>
<td>$3,321.50</td>
</tr>
<tr>
<td>Contingency (25%)</td>
<td></td>
<td>$11,862.50</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$62,634.00</td>
<td>$65,697.37</td>
</tr>
</tbody>
</table>

Prepared by TMR - August 21, 2001
EXHIBIT "B"

SAMPLE BALLOT
SAMPLE
OFFICIAL BALLOT
COMMUNITY FACILITIES DISTRICT NO. 1996-1(8)
OF
THE CITY OF MODESTO
STATE OF CALIFORNIA
SPECIAL TAX ELECTION
March 19, 2002
BALLOT NO. 1

50% of land in territory proposed to be included in District
You are entitled to cast 36 votes
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS
To vote, make a mark (x) in the voting area to the right of the word "YES" or "NO". All
distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark,
tear or deface this ballot, call the Office of the City Clerk of the City of Modesto as soon as
possible at (209) 577-5396, Monday through Friday between the hours of 8:00 a.m. and 5:00
p.m. for instructions.

MARK YOUR CHOICE IN THIS MANNER ONLY: [X]

MEASURE SUBMITTED
TO VOTE OF VOTERS

Proposition A. Shall a special tax with a maximum rate, method of apportionment, and
manner of collection as established in the Resolution of Formation to be considered at
public hearing by the City Council of the City of Modesto on March 12, 2002, be levied
within the territory proposed to be annexed to Community Facilities District No. 1996-1(8)
for the purposes of financing certain public facilities and services as provided in the
Resolution?

YES [ ]

NO [ ]

BALLOT NO. 1

50% of land in territory proposed in the formation of the District
THIS BALLOT HAS A VALUE OF 36 VOTES
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING THE ISSUANCE OF CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY REVENUE BONDS (SUTTER HEALTH), SERIES 2002 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $250,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, IMPROVEMENT AND EQUIPPING OF MEMORIAL HOSPITALS ASSOCIATION AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, Sutter Health, a California nonprofit public benefit corporation (the “Corporation”), has requested that the California Statewide Communities Development Authority (the “Authority”) participate in the issuance of revenue bonds in an aggregate principal amount not to exceed $250,000,000 (the “Bonds”) for the acquisition, improvement and equipping of the medical facility known as Memorial Hospitals Association (the “Facilities”) to be owned and operated by the Corporation (or an affiliate of the Corporation) and located within the City of Modesto (the “City”) and other facilities located outside of the City; and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the “Code”), the issuance of the Bonds by the Authority must be approved by the City because the Facilities are located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the “City Council”) is the elected legislative body of the City and is one of the applicable elected representatives required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 9 of the Amended and Restated Joint Exercise of Powers Agreement, dated as of June 1, 1988 (the “Agreement”), among certain local agencies, including the City; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given on February 11, 2001, held a public hearing on February 26, 2001, regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority;

RESOLUTION WHEREUPON, the City Council hereby approves the issuance of the Bonds by the Authority.
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto as follows:

Section 1. The City Council hereby approves the issuance of the Bonds by the Authority for the purposes of acquiring, improving and equipping the Facilities. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (a) Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Facilities are located, in accordance with said Section 147(f) and (b) Section 9 of the Agreement.

Section 2. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 3. This resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2001, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Conrad, Friedman, Serpa, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher, Frohman, Smith

ATTEST: [Signature]
JEAN ZAHR, City Clerk

(seal)

APPROVED AS TO SUFFICIENCY:

By: [Signature]
MIKE MILICH, City Attorney