A RESOLUTION APPOINTING MEMBER TO THE DOWNTOWN IMPROVEMENT DISTRICT

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. DENNIS E. WILSON is hereby appointed to the Downtown Improvement District, 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 and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-555

A RESOLUTION APPOINTING MEMBER TO THE ECONOMIC DEVELOPMENT 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. PHILIP TOMLIN is hereby appointed to the Economic Development Loan Committee, with a 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 and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
A RESOLUTION APPOINTING MEMBER TO THE GOLF COURSES ADVISORY COMMITTEE

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

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

SECTION 1. PATRICK McHUGH is hereby appointed to the Golf Courses Advisory 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 newly appointed member and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \underline{Jean Zahr}, City Clerk

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-557

A RESOLUTION APPOINTING DWIGHT BATEMAN TO OBSERVE THE PROCEEDINGS OF THE PANEL EVALUATING PROPOSALS FOR A CONTRACT TO OPERATE MODESTO AREA DIAL-A-RIDE (MADAR).

WHEREAS, the City is in the process of procuring a new contract for the operation of Modesto Area Dial-A-Ride (MADAR), and

WHEREAS, on October 8, 2002, the City Council authorized staff to solicit proposals for said contract, and

WHEREAS, on that date the City Council stated their desire that a community member be appointed to observe the proceedings of the committee that will evaluate proposals submitted by firms desiring to be awarded the MADAR operations contract, and

WHEREAS, Mr. Dwight Bateman, Executive Director of the Disability Resource Agency for Independent Living is well-qualified to observe said proceedings and also has an interest in selecting a high-quality firm to operate MADAR, and

WHEREAS, Mr. Bateman has consented to serve in this capacity, and

WHEREAS, by an agenda report to the City Council dated October 18, 2002, from the Engineering and Transportation Director, City staff recommended to the Council that Mr. Bateman be appointed,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Mr. Bateman is hereby appointed to observe the proceedings of the committee that will evaluate proposals submitted by firms desiring to be awarded the MADAR operations contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ZAHR, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-558

A RESOLUTION ADOPTING REVISIONS TO THE STORM DRAINAGE
SECTIONS OF THE STANDARD SPECIFICATIONS OF THE CITY OF
MODESTO, 2001 EDITION

WHEREAS, Section 4-4.801 of the Modesto Municipal Code provides for the
adoption by the City Council of “Standard Specifications of the City of Modesto”, said
Standard Specifications to be prepared by the Engineering and Transportation
Department and recommended by the Planning Commission, and

WHEREAS, the Engineering and Transportation Department, Development
Services Division, has recommended revisions, which include additions, deletions, or
revisions to the Storm Drainage Sections of the Standard Specifications, 2001 Edition,
and

WHEREAS, the proposed revisions are to accomplish correcting grammatical
errors, adding new text and drawings, and adding policies and procedures which have
already been established by the Engineering and Transportation Department, and

WHEREAS, the proposed revisions were considered by the Construction Industry
Liaison Committee and notices of an informal public hearing by the Planning
Commission to consider the proposed revisions were sent to the Building Industry
Association, Board of Realtors, Stanislaus County Public Works, and local developers,
enGINEERS, and utility companies, and

WHEREAS, the Planning Commission, by Resolution No. 2002-44, adopted on
October 7, 2002, recommended to the City Council the adoption of revisions to the storm
drainage sections of the Standard Specifications of the City of Modesto as incorporated in
the document titled “Standard Specifications of the City of Modesto, 2001 Edition”,
copies of which are on file in the offices of the Engineering and Transportation Director
and the Secretary of the Planning Commission, and
WHEREAS, said proposed revisions to the storm drainage sections of the Standard Specifications of the City of Modesto, 2001 Edition, as prepared by the Engineering and Transportation Director and recommended by the Planning Commission, were considered by the City Council at its regular meeting on November 6, 2002, at which time the Council determined that the proposed revisions to the storm drainage sections of the Standard Specifications should be adopted, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to the provisions of Section 4-4.801 of the Modesto Municipal Code, those certain revisions to the storm drainage sections of the "Standard Specifications of the City of Modesto, 2001 Edition", copies of which revisions are on file in the offices of the Engineering and Transportation Director and the Secretary of the Planning Commission, are hereby adopted as revisions to the Standard Specifications of the City of Modesto.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING THE PROJECT TITLED "ROOSEVELT PARK TENNIS COURTS RENOVATION" AS COMPLETE

WHEREAS, a report has been filed by the Engineering & Transportation Director that the project titled "Roosevelt Park Tennis Courts Renovation", has been completed by Southwest Recreational Industries, Inc., in accordance with the contract agreement dated March 26, 2002.

NOW, THEREFORE, BE IT RESOLVED that the Roosevelt Park Tennis Courts Renovation project be accepted from said contractor, Southwest Recreational Industries, Inc., that the notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $50,142.50 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 12th day of November, 2002, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

ATTEST: 

(SEAL)

**APPROVED AS TO FORM:**

By 

MICHAEL D. MILICH, City Attorney
A RESOLUTION ACCEPTING THE BID OF GEORGE REED, INC., FOR THE
PROJECT TITLED “VILLAGE ONE WEST BASIN ROAD IMPROVEMENTS”

WHEREAS, the bids received for Village One West Basin Road Improvements were
opened at 11:00 a.m. on October 29, 2002, and later tabulated by the Engineering and
Transportation Director for the consideration of the Council, and

WHEREAS, the Engineering and Transportation Director has recommended that the
bid of $899,333 received from GEORGE REED, INC., be accepted as the lowest responsible
bid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that
the bid of $899,333 received from GEORGE REED, INC., be accepted and the execution of
a contract for the completion of the project by the City's designated officials be authorized.

RESCINDED

1-7-03

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2003-10
The foregoing resolution was introduced at a regular meeting of the Council of the
City of Modesto held on the 12th day of November, 2002, by Councilmember Jackman, who
moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon
roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:
By 
MICHAEL D. MILICH, City Attorney
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS CONSISTENT WITH THE SCOPE OF THE VILLAGE ONE ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE 1994 SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR VILLAGE ONE: VILLAGE ONE – WEST BASIN STREET IMPROVEMENTS (CITY INITIATED)

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Program 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, on May 24, 1994 the Modesto City Council certified the Final Supplemental EIR for Village One which supersedes and updates the Village One Program EIR, and

WHEREAS, the City of Modesto desires to undertake a project to improve the roadways surrounding the storm drainage West Basin located in Village One, and

WHEREAS, the staff has reviewed the proposed project to determine if said project might have a significant effect on the environment as set forth in Environmental Impact Reports EA/ET 2002-33, and

WHEREAS, pursuant to Environmental Impact Report EA/ET 2002-33, staff has determined that the proposed project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the 1994 Village One Supplemental EIR, that the Program EIR adequately describes the proposed project for purposes of CEQA, and that the potential impacts of the proposed project has been adequately addressed in that EIR.

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

1. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, the Village One – West Basin Street Improvements 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"), that the project is adequately described in the Program EIR for purposes of CEQA, and no new environmental document or findings are required by CEQA.
2. There are no substantial changes proposed in the project which will require major revisions of the Village One Program EIR, as modified by the Supplemental EIR.

3. 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 Program EIR, as modified by the Supplemental EIR.

4. No new information, which was not known and could not have been known at the time the Village One Program EIR, as modified by the Supplemental EIR, was certified as complete, has become available.

5. Environmental Assessment No. EA/ET 2002-33 provides the substantial evidence to support the above findings.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-562

A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND SCENIC ROAD PROPERTIES RELATED TO THE REMBURSEMENT FOR RIGHT-OF-WAY AND IMPROVEMENTS FOR THE INTERSECTION OF SCENIC DRIVE AND COFFEE ROAD

WHEREAS, SCENIC ROAD PROPERTIES, a California Limited Partnership, owns a certain tract of land consisting of approximately 11.66 acres within Stanislaus County, commonly known as Scenic Road Properties, and

WHEREAS, SCENIC ROAD PROPERTIES is developing the property, and as a condition of approval of said development, is required to improve forty (40) feet of right-of-way to the north of the property at the intersection with Coffee Road, and

WHEREAS, pursuant to CITY's CFF Reimbursement Policy, SCENIC ROAD PROPERTIES has requested, and CITY has agreed, that SCENIC ROAD PROPERTIES be reimbursed for the right-of-way and improvements for this portion of Scenic Drive in the not-to-exceed amount of $262,200.45, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the CITY OF MODESTO and SCENIC ROAD PROPERTIES related to the reimbursement for right-of-way and improvements for Scenic Drive at the intersection with Coffee Road in the not-to-exceed amount of $262,200.45 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager 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 12th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MITIGATED NEGATIVE DECLARATION (SCH No. 2002022107): SCENIC/COFFEE INTERSECTION IMPROVEMENTS

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

WHEREAS, Mitigated Negative Declaration (SCH No. 2002022107) on the SCENIC ROAD PROPERTIES Vesting Tentative Parcel Map was prepared under the Master EIR and provides measures to mitigate environmental effects resulting from the Vesting Tentative Parcel Map, which this project is part of, and

WHEREAS, the Engineering and Transportation Department, by Initial Study, EA/ET 2002-35, reviewed the proposed Scenic/Coffee Intersection Improvements and made the determination that the proposed project is within the scope of the project covered by the Mitigated Negative Declaration, that the environmental effects of the proposed project were adequately examined by the previous Mitigated Negative Declaration prepared for the SCENIC ROAD PROPERTIES Vesting Tentative Parcel Map, and therefore no new or additional environmental documents are required, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed Scenic/Coffee Intersection Improvements, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

A. No substantial changes are proposed in the project which will require major revisions of the previous Mitigated Negative Declaration due to the involvement if new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

B. No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Mitigated Negative Declaration due to the involvement of new significant environmental
effects or a substantial increase in the severity of previously identified significant effects.

C. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Mitigated Negative Declaration was certified as complete was adopted.

D. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per section 21157.1) for the Scenic/Coffee Intersection Improvement project.

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

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney
EXHIBIT “A”

INITIAL STUDY

EA/ET 2002-35
City of Modesto

Initial Study

Scenic/Coffee Intersection Improvements

EA NO. ET 2002-35

I. PURPOSE:

A Mitigated Negative Declaration (SCH #2002022107) was prepared for the Vesting Tentative Parcel Map for Scenic Road Properties pursuant to CEQA Section 21157.1 and 21157.5. The Scenic/Coffee Intersection Improvements were included in the project anticipated in the Mitigated Negative Declaration.

This Initial Study, in accordance with Section 15063(C) of the CEQA Guidelines analyzes whether an earlier Mitigated Negative Declaration described above adequately examined this project’s effects. This Initial Study is tiered off of that Mitigated Negative Declaration (this document is on file in the Community and Economic Development Department’s Planning Division of the City of Modesto).

II. PROJECT DESCRIPTION:

A. Project Title:
   Scenic/Coffee Intersection Improvements

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

C. Contact Person, address and phone number:
   Robert Granberg, Senior Civil Engineer, P.O. Box 642 Modesto, CA 95353, (209) 577-5259

D. Project Location:
   Intersection of Scenic Avenue and Coffee Road, Modesto
   See attached site map, Exhibit A

E. Project Sponsor, address and phone number:
   City of Modesto, P.O. Box 624, Modesto, CA 95353

F. Modesto General Plan Designation:
   Modesto General Plan

G. Zoning: C-2, Stanislaus County

H. Description of Proposed Project:
The project is the widening of the south side of Scenic Drive at Coffee Road. Included in the work are power pole relocations, traffic signal relocation, relocation of two existing storm drain catch basins, new curb, gutter and sidewalk, asphalt paving, concrete median barrier and traffic striping. These improvements were contemplated in the Vesting Tentative Parcel Map for Scenic Road Properties (see attached map).

I. Surrounding Land Uses:
   North: Commercial C-1
   South: Dry Creek and residential
   East: Commercial C-3
   West: Commercial C-1

J. Other Public agencies whose approval is required:
   N/A

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

A. Traffic and Circulation
   Widening this intersection will accommodate the traffic generated by the proposed use and improve the traffic circulation patterns at this intersection. Thus, the proposed intersection improvement would result in no significant increase in demand for circulation facilities that are not anticipated by the traffic model that analyzed the General Plan. Therefore, the proposed intersection improvements are consistent with the Traffic and Circulation needs section of the General Plan MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 5 of the Mitigated Negative Declaration.

B. Degradation of Air Quality
   Widening this intersection would result in no revisions to the adopted General Plan land use designations, infrastructure, or transportation and circulation system. Thus, the proposed intersection improvement would not result in a significant increase in generation of traffic that is not anticipated by the traffic model that analyzed the adopted General Plan. Therefore, the proposed initiative will not cause additional traffic-related impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 6 of the Mitigated Negative Declaration.
C. Generation of Noise
Widening this intersection would result in no changes to the land use designations, infrastructure, or traffic and circulation system contained in the General Plan. Because there would not be a significant increase in traffic generated, and roadway level of service would be consistent with the General Plan, the proposed Initiative will not cause an increase in the projected generation of traffic-related noise in the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 7 of the Mitigated Negative Declaration.

D. Loss of Productive Agricultural Land
Widening this intersection does not effect conversion of productive agricultural lands within the adopted General Plan area. Therefore, the proposal is not an increased impact to loss of productive agricultural land as analyzed by the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 8 of the Mitigated Negative Declaration.

E. Increased Demand for Water Supplies
Widening this intersection would not result in any change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus the Initiative would not require additional water supplies beyond that identified for the General Plan in the Increased Demand for Water Supplies section of the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 9 of the Mitigated Negative Declaration.

F. Increased Demand for Sanitary Sewer Services
Widening this intersection does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Thus, it will not create a significant increase in demand for sewer capacity not identified in the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 10 of the Mitigated Negative Declaration.

G. Loss of Sensitive Wildlife and Plant Habitat
Widening this intersection does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Thus, the project would have no impact to sensitive wildlife or any plant habitat beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 11 of the Mitigated Negative Declaration.

H. Disturbance of Archaeological and Historic Sites
Widening this intersection does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The proposed water well site No. 312 would not be located within an General Plan archaeological resource study area. Therefore, the
proposal would have no significant effect on the potential archaeological resource study area shown in the General Plan MEIR, Figure 8-1. Information describing how the project is consistent with the General Plan Master EIR is found on page 15 of the Mitigated Negative Declaration.

I. Drainage, Flooding and Water Quality
Widening this intersection would not result in a change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not addressed in the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 16 of the Mitigated Negative Declaration.

J. Increased Demand for Storm Drainage
Widening this intersection would not result in a change to the gross acreage, land use, infrastructure or circulation system of the General Plan and would therefore cause no significant increase in demand for storm drainage that was not already addressed in the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 18 of the Mitigated Negative Declaration.

K. Increased Demand for Parks and Open Space
Widening this intersection would not change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Therefore, this intersection improvement would not generate any new population that would increase demand for use of parks or open space facilities. Information describing how the project is consistent with the General Plan Master EIR is found on page 19 of the Mitigated Negative Declaration.

L. Increased Demand for Schools
Widening this intersection does not propose to change the gross acreage, land use, infrastructure or circulation system of the General Plan. Information describing how the project is consistent with the General Plan Master EIR is found on page 20 of the Mitigated Negative Declaration.

M. Increased Demand for Police Services
Widening this intersection does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus, it would not result in a significant increase in service demand for the City of Modesto Police Department. Information describing how the project is consistent with the General Plan Master EIR is found on page 21 of the Mitigated Negative Declaration.

N. Increased Demand for Fire Services
Widening this intersection does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General
Plan. Information describing how the project is consistent with the General Plan Master EIR is found on page 22 of the Mitigated Negative Declaration.

O. Generation of Solid Waste
Widening this intersection does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Information describing how the project is consistent with the General Plan Master EIR is found on page 22 of the Mitigated Negative Declaration.

P. Generation of Hazardous Materials
Widening this intersection would not result in any change to the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Because this intersection improvement will not result in additional industrial development or health hazards not already identified in the adopted General Plan, there will be no additional hazardous material generated beyond those identified in the MEIR. Information describing how the project is consistent with the General Plan Master EIR is found on page 23 of the Mitigated Negative Declaration.

Q. Landslides and Seismic Activity
Widening this intersection does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. The MEIR analysis shows that because the land is essentially flat, Uniform Building Code requirements have been addressed, and the nearest earthquake fault line is over 15 miles west of the Modesto Urban Area, there will be no additional potential for exposing people to landslides or earthquake related hazards such as liquefaction. Information describing how the project is consistent with the General Plan Master EIR is found on page 25 of the Mitigated Negative Declaration.

R. Energy
Widening this intersection does not propose to change the gross acreage, land use designations, infrastructure or circulation system of the General Plan. Thus, the proposed water well site is consistent with the analysis in the General Plan MEIR. Utility companies serving the Modesto Urban Area indicated, during MEIR preparation, that development of the urban area would result in a less than significant impact on demands for energy. Information describing how the project is consistent with the General Plan Master EIR is found on page 26 of the Mitigated Negative Declaration.

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. No substantial changes are proposed in the project which will require major revisions of the previous Mitigated Negative Declaration due to the involvement if new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
B. No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

C. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Mitigated Negative Declaration was certified as complete was adopted.

D. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (per Section 21157.1) for the Scenic/Coffee Intersection Improvement project.

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

Signature: [Signature]
## A. SITE PREPARATION

1. **RELOCATE EXISTING SIGNALS**
   - QUAN.: 1 LS
   - UNIT: $103,000.00
   - AMOUNT: $103,000.00

2. **RELOCATE EXISTING POWER POLE**
   - QUAN.: 2 EA
   - UNIT: $5,000.00
   - AMOUNT: $10,000.00

**SUB-TOTAL**: $113,000.00

## B. WATER SYSTEM

1. **RELOCATE EXISTING FIRE HYDRANT**
   - QUAN.: 2 EA
   - UNIT: $500.00
   - AMOUNT: $1,000.00

**SUB-TOTAL**: $1,000.00

## C. STORM DRAINAGE

1. **REMOVE EXISTING CATCH BASIN**
   - QUAN.: 2 EA
   - UNIT: $800.00
   - AMOUNT: $1,600.00

2. **CATCH BASIN**
   - QUAN.: 2 EA
   - UNIT: $1,300.00
   - AMOUNT: $2,600.00

3. **12" STORM DRAIN**
   - QUAN.: 64 LF
   - UNIT: $140.00
   - AMOUNT: $8,960.00

4. **12" STORM DRAIN TIE-IN TO EX. PIPE**
   - QUAN.: 2 EA
   - UNIT: $400.00
   - AMOUNT: $800.00

**SUB-TOTAL**: $13,960.00

## D. STREET WORK

1. **REMOVE EXISTING CURB AND GUTTER**
   - QUAN.: 105 LF
   - UNIT: $8.00
   - AMOUNT: $840.00

2. **6" VERTICAL CURB AND GUTTER**
   - QUAN.: 510 LF
   - UNIT: $10.00
   - AMOUNT: $5,100.00

3. **6" VERTICAL MEDIAN CURB**
   - QUAN.: 535 LF
   - UNIT: $40.00
   - AMOUNT: $21,400.00

4. **4" CONCRETE CAP WITH STAMPED, COLORED CONCRETE**
   - QUAN.: 712 SF
   - UNIT: $18.00
   - AMOUNT: $12,816.00

5. **4" CONCRETE SIDEWALK ONLY**
   - QUAN.: 2,604 SF
   - UNIT: $2.50
   - AMOUNT: $6,510.00

6. **WHEELCHAIR RAMP (LABOR ONLY)**
   - QUAN.: 2 EA
   - UNIT: $300.00
   - AMOUNT: $600.00

7. **2" x 4" HEADERBOARD**
   - QUAN.: 63 LF
   - UNIT: $7.00
   - AMOUNT: $441.00

8. **STANDARD BARRICADE**
   - QUAN.: 22 LF
   - UNIT: $40.00
   - AMOUNT: $880.00

9. **REMOVE EXISTING PAVEMENT**
   - QUAN.: 2,920 SF
   - UNIT: $0.50
   - AMOUNT: $1,460.00

10. **6" A.C. & 10.5" A.B.**
    - QUAN.: 13,644 SF
    - UNIT: $3.60
    - AMOUNT: $49,118.40

**SUB-TOTAL**: $99,165.40
Opinion of Probable Cost
SCENIC & COFFEE INTERSECTION IMPROVEMENTS
71-824
Date 10/10/02
Page 2

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<th>G. ENGINEERING FEES (12% OF IMP. TOTAL)</th>
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<tr>
<td>1. 2% SURVEYING</td>
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<td>3. 3% CONSTRUCTION STAKING</td>
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<td>4. 2% CONSTRUCTION MANAGEMENT</td>
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<td>5. 1% ADMINISTRATION</td>
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| ENGINEERING FEES TOTAL =====> | $28,095.05 |
| GRAND TOTAL =====> | $269,220.43 |

NOTES
1. THE QUANTITIES IS BASED ON AN APPROVED SET OF IMPROVEMENT PLANS ENTITLED SCENIC DRIVE OFFICE COMPLEX.
2. THE QUANTITIES START FROM THE WEST SIDE OF THE PROPOSED MEDIAN TO THE EAST PROPERTY LINE WHICH ENDED IMPROVEMENTS.
A RESOLUTION APPROVING A CONTRACT WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP) AT A 500-COLUMN-INCH "NO-COMMITMENT" ADVERTISING RATE IN CONJUNCTION WITH A BUSINESS PACKAGE ADVERTISING PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services required are for retail, job announcements, classified, and legal advertisements as required by City Charter, Modesto Municipal Code (MMC), and Public Contract Code (PCC), and

WHEREAS, the City is currently afforded a non-profit discount structure on its retail advertising requirements, and

WHEREAS, Council has requested that staff consolidate the procurement of advertising through a central source in order to secure the best contractual pricing available based on City-wide volume, and

WHEREAS, staff from the City Manager’s office and the Purchasing Division have met with representatives of the Modesto Bee to negotiate an advertising contract that will meet the City’s advertising requirements and offer the best contractual pricing based on City-wide volumes, and

WHEREAS, once signed, the advertising contract will be implemented through the City Manager’s office, and

WHEREAS, the Purchasing Supervisor has determined that a process other than a formal bid procedure will result in procurement of advertising for the City at the lowest cost commensurate with the desired quality, as provided for in Modesto Municipal Code section 8-3.203(d), and

WHEREAS, at its meeting on October 28, 2002, the Finance Committee supported and recommended approval of this item,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a contract with the Modesto Bee (McClatchy Newspaper Group), at a 500-column inch “no-commitment” advertising rate in conjunction with a business package-advertising plan.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING A GRANT FROM THE FEDERAL OFFICE OF COMMUNITY ORIENTED POLICING SERVICES ENTITLED COPS UNIVERSAL HIRING PROGRAM FOR THE HIRE OF SIX NEW MODESTO POLICE OFFICERS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department made application to the Federal Office of Community Oriented Policing Services under the COPS Universal Hiring Program for the hire of six new police officers, and

WHEREAS, the grant was approved by the Federal Office of Community Oriented Policing Services, and

WHEREAS, approval of this program will assist in attaining the Health and Safety Plan Strategic Action to “Obtain Public Service Grants,” and

WHEREAS, this grant program was discussed and unanimously supported by the Safety and Communities Committee at its meeting on October 7, 2002, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts and approves the COPS Universal Hiring Program for the hire of six new Modesto Police Officers with the Federal Office of Community Oriented Policing Services.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM

By: Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING A GRANT FROM THE FEDERAL OFFICE OF COMMUNITY ORIENTED POLICING SERVICES ENTITLED COPS IN SCHOOLS FOR THE HIRE OF TWO NEW MODESTO POLICE OFFICERS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department made application to the Federal Office of Community Oriented Policing Services under the COPS in Schools Program for the hire of two new police officers, one officer for schools in each of Sylvan Union School District and Modesto City School District, and

WHEREAS, the grant was approved by the Federal Office of Community Oriented Policing Services, and

WHEREAS, approval of this program will assist in attaining the Health and Safety Plan Strategic Action to "Obtain Public Service Grants," and

WHEREAS, this grant program was discussed and unanimously supported by the Safety and Communities Committee at its meeting on October 7, 2002, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts and approves the COPS in Schools Program for the hire of two new Modesto Police Officers with the Federal Office of Community Oriented Policing Services.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-567

A RESOLUTION ACCEPTING A GRANT FROM THE FEDERAL OFFICE OF COMMUNITY ORIENTED POLICING SERVICES ENTITLED COPS MORE 02 FOR THE ACQUISITION OF MOBILE DATA TERMINALS AND A LIVESCAN FINGERPRINTING SYSTEM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department made application to the Federal Office of Community Oriented Policing Services under the COPS MORE 02 Program for the acquisition of mobile data terminals and a LiveScan Fingerprinting System, and

WHEREAS, the grant was approved by the Federal Office of Community Oriented Policing Services, and

WHEREAS, approval of this program will assist in attaining the Health and Safety Plan Strategic Action to “Obtain Public Service Grants,” and

WHEREAS, this grant program was discussed and unanimously supported by the Safety and Communities Committee at its meeting on October 7, 2002, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts and approves the COPS MORE02 Program for the acquisition of mobile data terminals and a LiveScan Fingerprinting System.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM: 

By: 
MICHAEL D. MILICH, City Attorney

11/12/02/Polic/eJ Tognolini 2  2002-567
MODESTO CITY COUNCIL
RESOLUTION 2002-568

A RESOLUTION CALLING FOR A MEASURE TO BE HELD PLACED ON THE NOVEMBER 2003 ELECTION FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY OF MODESTO, BY MOTION OF THE COUNCIL, AN AMENDMENT TO THE MODESTO CITY CHARTER CHANGING THE DATES OF THE CITY’S RUNOFF ELECTION.

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

SECTION 1. Pursuant to Article 11, Section 3 of the California Constitution, Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at a regular municipal election to be held on November 4, 2003, a proposal to amend Sections 300 and 700 of the Modesto City Charter as set forth in Exhibit “A” attached hereto and incorporated herein by this reference.

SECTION 2. That a measure is to appear on the ballot as follows:

| Shall the Modesto City Charter be amended to change the runoff election date from December of odd-numbered years to March of even-numbered years, commencing with the year 2004? | YES | NO |

SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election department of the County of Stanislaus.

SECTION 4. That, if approved, the proposed charter amendments would take effect on the date set forth in Section 34459 of the California Government Code.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: MICHAEL D. MILICH, City Attorney
SECTION 300. REGULAR MUNICIPAL ELECTIONS.

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd-numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 1985.

If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective offices of the City of Modesto receives a majority of the votes cast at said regular municipal election, a second regular municipal election shall be held for said office on the second first Tuesday in December March of each odd even-numbered year commencing with the year 1987-2004. At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office. The terms of those Councilmembers, including the Mayor, elected in 1999 are hereby extended until their successors are elected and qualified in 2004.

SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first regular Council meeting following the adoption by the Council of the official canvass of their election at which time they shall be installed. Thereafter they shall hold office until their successors are elected and qualified. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

Three (3) Councilmembers shall be elected at the regular municipal election in 1963 and at each regular municipal election thereafter.

A Mayor shall be elected at the regular municipal election in 1963 and at each alternate regular municipal election thereafter.

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.
Each elective office shall be deemed a separate office to be filled at any election. The City Clerk shall designate each such elective office by an appropriate descriptive designation. No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office. After election, the designation shall have no further significance except for the purpose of designating incumbency.
A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE MEASURE TO AMEND SECTION 300 AND SECTION 700 OF THE MODESTO CITY CHARTER CHANGING THE CITY’S RUN OFF ELECTION DATE TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE.

WHEREAS, the Modesto City Council has called for a measure to be placed on the November 4, 2003 Election, for the purpose of submitting to the electors of the City of Modesto a proposal, by motion of the Council, an amendment to the Modesto City Charter to change the City’s Runoff Election, commencing in 2004, from the second Tuesday in December to the first Tuesday in March of even-numbered years, with each member of the Council being duly elected taking their respective office immediately following certification of the election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk of the City of Modesto is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
SECTION 300. REGULAR MUNICIPAL ELECTIONS.

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd-numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 1985.

If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective offices of the City of Modesto receives a majority of the votes cast at said regular municipal election, a second regular municipal election shall be held for said office on the second first Tuesday in December of each odd even-numbered year commencing with the year 1987-2004. At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office. The terms of those Councilmembers, including the Mayor, elected in 1999 are hereby extended until their successors are elected and qualified in 2004.

SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first regular Council meeting following the adoption by the Council of the official canvass of their election at which time they shall be installed. Thereafter they shall hold office until their successors are elected and qualified. Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

Three (3) Councilmembers shall be elected at the regular municipal election in 1963 and at each regular municipal election thereafter.

A Mayor shall be elected at the regular municipal election in 1963 and at each alternate regular municipal election thereafter.

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.
Each elective office shall be deemed a separate office to be filled at any election. The City Clerk shall designate each such elective office by an appropriate descriptive designation. No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office. After election, the designation shall have no further significance except for the purpose of designating incumbency.
SECTION 1500. BOARD OF EDUCATION.

The control, management and administration of the public schools of the City of Modesto, and the territory that is now or may hereafter be annexed thereto for school purposes, in accordance with the Constitution and general laws of the State of California, are hereby vested in a Board of Education. In all matters not specifically provided for in this article, the Board shall be governed by the provisions of the general law relating to such matters and shall be vested with all the powers and charged with all the duties provided by the laws of the State for city boards of education. The Board of Education shall be the governing body of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County.

The Board of Education shall consist of seven (7) members who may receive compensation pursuant to the applicable provisions of the Education Code of the State of California. The election for members of the Board of Education shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 2003. Said election date shall be known as the second Regular Municipal Election. The members of the Board of Education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the Board. The members of the Board of Education shall hold office for a period of four (4) years from and after the first Tuesday following the second Regular Municipal Election at which they are elected and continuing until their successors are elected and have qualified. No person shall be eligible to be nominated for or to hold office as a member of the Board of Education unless the person is and shall have been for at least thirty (30) days preceding the person's nomination or appointment a resident and registered elector of the school district or districts which are under the jurisdiction of the Board of Education.

When a vacancy, as defined in Government Code [section] 1770, occurs on the Board of Education, the Board of Education shall, within thirty (30) days, either make a provisional appointment to fill the vacancy or call for an election. Failure to take any action within thirty (30) days shall be treated as a call for an election. If a provisional appointment is made, registered voters of the district shall have thirty (30) days to present a petition to the Board of Education calling for a special election to fill the vacancy. The petition must contain the City Clerk's estimate of the cost of the special election and must be signed by at least one and one-half (1 1/2) percent of the registered voters, at the last municipal election, of the territory within the boundaries of the school district or districts which are under the jurisdiction of the Board at the last
municipal election. If the City Clerk determines that the petition is legally sufficient, the provisional appointee shall step down and an election shall be called to fill the vacancy. The provisional appointment shall confer no powers and duties for the first thirty (30) days. If no petition is filed within thirty (30) days, the provisional appointee shall have all the powers and duties of a Board of Education member and shall hold office until the next regularly scheduled municipal election. If an election is held, it shall be to fill the vacancy for the remainder of the unexpired term. The members of the Board of Education shall be subject to recall as provided in this Charter.

All territory included within the limits of any school district or districts which are under the jurisdiction of the Board of Education, but not within the City limits, shall be deemed a part of the City for the purpose of holding municipal elections and shall constitute one (1) or more separate election precincts; and the qualified electors therein shall vote only for members of the Board of Education and on questions submitted to a vote of the people at special or regular elections pertaining to schools.

The members of the Board of Education in office at the time this amendment to the Charter takes effect shall continue in office until the expiration of their terms. Their successors shall be elected at the regular municipal election to be held during the year of each said respective term expires.
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-570

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE MEASURE TO AMEND SECTION 300 AND SECTION 700 OF THE MODESTO CITY CHARTER CHANGING THE CITY’S RUN OFF ELECTION DATE.

WHEREAS, the Modesto City Council has called for a measure to be placed on the November 4, 2003 Election, for the purpose of submitting to the electors of the City of Modesto a proposal, by motion of the Council, an amendment to the Modesto City Charter to change the City’s Runoff Election, commencing in 2004, from the second Tuesday in December to the first Tuesday in March of even-numbered years, with each member of the Council being duly elected taking their respective office immediately following certification of the election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to the California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no arguments may be filed with the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002 by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
MICHAEL D. MILICH, City Attorney
A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH MODESTO CITY SCHOOLS FOR THE CITY OF MODESTO'S CONTRIBUTION OF $60,500.00 IN FUNDING TO HIRE RECREATIONAL LEADERS TO HELP STAFF THE AFTER SCHOOL LEARNING AND SAFE NEIGHBORHOODS PARTNERSHIP PROGRAMS, AND TO DONATE RECREATION SUPERVISION SERVICES VALUED AT $4,000.00, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING.

WHEREAS, the City of Modesto (CITY) and the Modesto City Schools District (MCS) have a long history of partnerships, and

WHEREAS, CITY and MCS have collaborated in securing a grant from the Department of Education in the amount of $370,600.00 per year for three years, beginning in fiscal year 2002/03, and

WHEREAS, the purpose of the Grant is to provide the After School Learning and Safe Neighborhoods Partnership program at four school sites: Franklin Elementary, Robertson Road Elementary, Mark Twain Junior High School, and Hanshaw Junior High School, and

WHEREAS, the Human Services Committee met on October 3, 2001, and supported the recommendation to participate in collaboration with Modesto City Schools on such after school programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Memorandum of Understanding with Modesto City Schools for the City of Modesto's contribution of $60,500.00 in funding to hire recreational leaders to help staff the After School Learning And Safe Neighborhoods Partnership Programs, and to donate recreation supervision services valued at $4,000.00.
BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute the Memorandum Of Understanding.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: \underline{Jean Zahr} City Clerk

APPROVED AS TO FORM:

By: \underline{Michael D. Milich}, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-572

A RESOLUTION APPROVING AN AGREEMENT WITH STANCO TO PROVIDE $73,080 IN HOME FUNDS FOR THE ACQUISITION AND REHABILITATION OF AN EXISTING SINGLE FAMILY DWELLING AT 512 VINE STREET AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME AGREEMENT AND NECESSARY LOAN DOCUMENTS.

WHEREAS, on July 24, 2001, by Resolution No. 2001-396, the City Council allocated fiscal year 2001-2002 HOME funds for affordable housing projects, and

WHEREAS, $73,080 of these funds were allocated to STANCO for the acquisition and rehabilitation of a single family dwelling at 512 Vine Street to be used as housing for very-low and low-income mentally disabled homeless individuals, and

WHEREAS, $67,580 will be provided to STANCO as a loan for acquisition and rehabilitation with a 3% interest rate, a 5 year deferral and a 30-year amortization period, and

WHEREAS, $5,500 will be provided to STANCO as a grant to be used for development fees and appraisal costs, and

WHEREAS, the Citizens Housing and Community Development Committee met on June 22, 2002, and supported the recommendation to provide $73,080 in HOME funds to STANCO for acquisition and rehabilitation of a single family dwelling at 512 Vine Street to be used as housing for very-low and low-income mentally disabled homeless individuals,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with STANCO to provide $73,080 in HOME funds to STANCO for acquisition and rehabilitation of a single family dwelling
at 512 Vine Street to be used as housing for very-low and low-income mentally disabled homeless individuals.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the HOME agreement and necessary loan documents.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION AMENDING A MONEY PURCHASE RETIREMENT PLAN, ACCOUNT NO. 107645, ADMINISTERED BY THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION FOR CITY MANAGER, JACK R. CRIST, TO INCLUDE ALL CHARTER OFFICERS, AND AUTHORIZING CITY OF MODESTO RISK MANAGER TO BE COORDINATOR FOR THE PLAN

WHEREAS, the City of Modesto has Charter Officers rendering valuable services, and

WHEREAS, Resolution No. 2000-274 authorized the establishment of a Money Purchase Retirement Plan for the City Manager to benefit the employee by providing funds for retirement and funds for the beneficiaries in the event of death, and

WHEREAS, the City of Modesto desires to include all Charter Officers in the same plan, and

WHEREAS, the City of Modesto desires that its Money Purchase Retirement Plan be administered by the ICMA Retirement Corporation and that the funds held under such plan be invested in the ICMA Retirement Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans.

NOW THEREFORE BE IT RESOLVED that the City of Modesto hereby establishes or has established a Money Purchase Retirement Plan in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust, pursuant to the specific provisions of the Adoption Agreement (executed copy attached hereto). The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries.
BE IT FURTHER RESOLVED that the City of Modesto hereby executes the Declaration of Trust of the ICMA Retirement Trust, attached hereto, intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the City of Modesto, if the assets of the plan are to be invested in the ICMA Retirement Trust.

BE IT FURTHER RESOLVED that the City of Modesto hereby agrees to serve as trustee under the Plan and to invest funds held under the Plan in the ICMA Retirement Trust.

BE IT FURTHER RESOLVED that the Risk Manager shall be the coordinator for the Plan; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the ICMA Retirement Trust; shall cast, on behalf of the City of Modesto, any required votes under the ICMA Retirement Trust; may delegate any administrative duties relating to the Plan to appropriate departments; and is authorized to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November 2002, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

Attest: 

JEAN ZAHN, City Clerk

**APPROVED AS TO FORM:**

By: MICHAEL D. MILICH, City Attorney
ICMA RETIREMENT CORPORATION
GOVERNMENTAL MONEY PURCHASE PLAN & TRUST
ADOPTION AGREEMENT

Account Number 10-7643

The Employer hereby establishes a Money Purchase Plan and Trust to be known as (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust. The Plan shall be known as:

The City of Modesto Charter Officers Money Purchase Plan & Trust

This Plan is an amendment and restatement of an existing defined contribution money purchase plan.

☐ Yes ☐ No

If yes, please specify the name of the defined contribution money purchase plan which this Plan hereby amends and restates: The City of Modesto Executive Management Money Purchase Plan & Trust

I. Employer Name: CITY OF MODESTO

II. The Effective Date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified:

January 1, 2003

III. Plan Year will mean:

☐ The twelve (12) consecutive month period which coincides with the limitation year. (See Section 5.04(i) of the Plan.)

☐ The twelve (12) consecutive month period commencing on July 1st and each anniversary thereafter.

IV. Normal Retirement Age (not to exceed age 65) shall be age 50

V. ELIGIBILITY REQUIREMENTS:

1. The following group(s) of Employees are eligible to participate in the Plan:

   ___ All Employees
   ___ All Full-Time Employees
   ___ Salaried Employees
   ___ Non-union Employees
   ___ Management Employees
   ___ Public Safety Employees
   ___ General Employees
   ___ Other (specify below):

   All Charter Officers
The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer.

2. The Employer hereby waives or reduces the requirement of a twelve (12) month Period of Service for participation. The required Period of Service shall be N/A (write N/A if an Employee is eligible to participate upon employment). If this waiver or reduction is elected, it shall apply to all Employees within the Covered Employment Classification.

3. A minimum age requirement is hereby specified for eligibility to participate. The minimum age requirement is N/A (not to exceed age 21). Write N/A if no minimum age is declared.

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows (choose one):

   ☑ Fixed Employer Contributions With Or Without Mandatory Participant Contributions.

   The Employer shall contribute on behalf of each Participant _4.0_ % of earnings or $ N/A for the Plan Year (subject to the limitations of Article V of the Plan). Each Participant is required to contribute _4.0_ % of earnings or $ N/A for the Plan Year as a condition of participation in the Plan. (Write "0" if no contribution is required.) If Participant Contributions are required under this option, a Participant shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

   The Employer hereby elects to “pick up” the Mandatory/Required Participant Contribution.

   ☑ Yes        ☐ No

   The pick-up provision specifies that the contribution is treated, for federal income tax purposes, as though it is made by the employer. The pick-up provision allows the employee to defer taxes on the employee mandatory contribution. The actual result is the same as if the contribution were a reduction in that employee’s salary by the amount of the contribution. Picked up contributions are NOT exempt from Social Security tax.

   [Note to Employer: A determination letter issued to an adopting Employer is not a ruling by the Internal Revenue Service that Participant contributions that are picked up by the Employer are not includable in the Participant’s gross income for federal income tax purposes. The Employer may seek such a ruling.]
[Picked up contributions are excludable from the Participant's gross income under section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 81-35, 1981-1 C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as employee contributions, are being paid by the Employer in lieu of contributions by the employee; and (2) the employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the plan.]

☐ Fixed Employer Match of Participant Contributions.

The Employer shall contribute on behalf of each Participant _____% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed _____% of Earnings or $______. Under this option, there is a single, fixed rate of Employer contributions, but a Participant may decline to make the required Participant contributions in any Plan Year, in which case no Employer contribution will be made on the Participant's behalf in that Plan Year.

☐ Variable Employer Match Of Participant Contributions.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____% of the contributions made by the Participant for the Plan Year (not including Participant contributions exceeding _____% of Earnings or $______________);

PLUS _____% of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Participant contributions exceeding in the aggregate _____% of Earnings or $______________).

Employer Contributions on behalf of a Participant for a Plan Year shall not exceed $______________ or ______% of Earnings, whichever is ______ more or ______ less.

2. Each Participant may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Section 4.05 and Article V of the Plan.

☐ Yes ☐ No
3. Employer contributions and Participant contributions shall be contributed to the Trust in accordance with the following payment schedule: (please circle one choice)

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly</td>
<td>1</td>
</tr>
<tr>
<td>Semi-Weekly</td>
<td>2</td>
</tr>
<tr>
<td>Bi-Monthly</td>
<td>3</td>
</tr>
<tr>
<td>Monthly</td>
<td>4</td>
</tr>
<tr>
<td>Semi-Monthly</td>
<td>5</td>
</tr>
<tr>
<td>Bi-Quarterly</td>
<td>6</td>
</tr>
<tr>
<td>Quarterly</td>
<td>7</td>
</tr>
<tr>
<td>Semi-Quarterly</td>
<td>8</td>
</tr>
<tr>
<td>Bi-Annually</td>
<td>9</td>
</tr>
<tr>
<td>Annually</td>
<td>10</td>
</tr>
<tr>
<td>Semi-Annually</td>
<td>11</td>
</tr>
</tbody>
</table>

VII. EARNINGS

Earnings, as defined under Section 2.09 of the Plan, shall include:

(a) Overtime
- Yes [ ]
- No [X]

(b) Bonuses
- Yes [ ]
- No [X]

VIII. LIMITATION ON ALLOCATIONS

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Sections 5.02 and 5.03 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (f) of the Plan will apply unless another method has been indicated below.

- Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any excess amounts, in a manner that precludes Employer discretion.)

 N/A

2. If the Participant is or has ever been a participant in a defined benefit plan maintained by the Employer, and if the limitation in Section 5.03 of the Plan would be exceeded, then the Participant’s Projected Annual Benefit under the defined benefit plan shall be reduced in accordance with the terms thereof to the extent necessary to satisfy such limitation. If such plan does not provide for such reduction, or if the limitation is still exceeded after the reduction, annual additions shall be reduced to the extent necessary in the manner described in Sections 5.02 and 5.02. The methods of avoiding the limitation described in this paragraph will not apply if the Employer indicates another method below.
IX. Other Method. (Note to Employer: Provide below language which will satisfy the 1.0 limitation of section 415(e) of the Code. Such language must preclude Employer discretion. See section 1.415-1 of the Regulations for guidance.)

N/A

3. The limitation year is the following 12-consecutive month period:

July 1 - June 30

IX. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule, subject to (1) the minimum vesting requirements as noted and (2) the concurrence of the Plan Administrator.

<table>
<thead>
<tr>
<th>Years of Service Completed</th>
<th>Percent Vesting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zero</td>
<td>100 %</td>
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<tr>
<td>One</td>
<td>%</td>
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<td>Eight</td>
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<tr>
<td>Nine</td>
<td>%</td>
</tr>
<tr>
<td>Ten</td>
<td>%</td>
</tr>
</tbody>
</table>

X. Loans are permitted under the Plan, as provided in Article XIII:

☐ Yes  ☐ No

XI. The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

XII. The Plan Administrator hereby agrees to inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan.

XIII. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST.

The Employer hereby agrees to the provisions of the Plan and Trust.
XIV. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

XV. An adopting Employer may not rely on a determination letter issued by the National or District Office of the Internal Revenue Service as evidence that the Plan is qualified under Section 401 of the Internal Revenue Code. In order to obtain reliance with respect to plan qualification, the Employer must apply to the appropriate key district office for a determination letter.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this 27 day of November, 2002

EMPLOYER

By: 

Title: Risk Manager

Attest: Muri Dilley

ACCEPTED: ICMA RETIREMENT CORPORATION

Paul T. Belsky
Title: Corporate Secretary

Attest: 

MPP Adoption Agreement 4/30/2000
A RESOLUTION ESTABLISHING A MONEY PURCHASE RETIREMENT PLAN TO BE ADMINISTERED BY THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION FOR CITY OF MODESTO EXECUTIVES, AND AUTHORIZING CITY OF MODESTO RISK MANAGER TO BE COORDINATOR FOR THE PLAN, ACCOUNT NO. 108063

WHEREAS, the City of Modesto has employees rendering valuable services, and

WHEREAS, the establishment of a Money Purchase Retirement Plan benefits employees by providing funds for retirement and funds for the beneficiaries in the event of death, and

WHEREAS, the City of Modesto desires to establish a Money Purchase Retirement Plan for City of Modesto Executives, and

WHEREAS, the City of Modesto desires that said Money Purchase Retirement Plan be administered by the ICMA Retirement Corporation and that the funds held under such plan be invested in the ICMA Retirement Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plan,

NOW THEREFORE BE IT RESOLVED that the City of Modesto hereby establishes or has established a Money Purchase Retirement Plan (the “Plan for Executives”) in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust, pursuant to the specific provisions of the Adoption Agreement (executed copy attached hereto). The Plan for Executives shall be maintained for the exclusive benefit of eligible employees and their beneficiaries.
BE IT FURTHER RESOLVED that the City of Modesto hereby executes the Declaration of Trust of the ICMA Retirement Trust, attached hereto, intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the City of Modesto, if the assets of the plan are to be invested in the ICMA Retirement Trust.

BE IT FURTHER RESOLVED that the City of Modesto hereby agrees to serve as trustee under the Plan for Executives and to invest funds held under the Plan for Executives in the ICMA Retirement Trust, and

BE IT FURTHER RESOLVED that the Risk Manager shall be the coordinator for the Plan for Executives; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the ICMA Retirement Trust; shall cast, on behalf of the City of Modesto, any required votes under the ICMA Retirement Trust; may delegate any administrative duties relating to the Plan for Executives to appropriate departments; and is authorized to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan for Executives.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November 2002, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
ICMA RETIREMENT CORPORATION
GOVERNMENTAL MONEY PURCHASE PLAN & TRUST
ADOPTION AGREEMENT

Account Number 10-8063

The Employer hereby establishes a Money Purchase Plan and Trust to be known as (the “Plan”) in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust. The Plan shall be known as:

The City of Modesto Executive Money Purchase Plan & Trust

This Plan is an amendment and restatement of an existing defined contribution money purchase plan.

☐ Yes  ☑ No

If yes, please specify the name of the defined contribution money purchase plan which this Plan hereby amends and restates: ________________________________

I. Employer Name:  CITY OF MODESTO

II. The Effective Date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified:

January 1, 2003

III. Plan Year will mean:

☐ The twelve (12) consecutive month period which coincides with the limitation year. (See Section 5.04(i) of the Plan.)

☐ The twelve (12) consecutive month period commencing on July 1st and each anniversary thereafter.

IV. Normal Retirement Age (not to exceed age 65) shall be age 50.

V. ELIGIBILITY REQUIREMENTS:

1. The following group(s) of Employees are eligible to participate in the Plan:

☐ All Employees
☐ All Full-Time Employees
☐ Salaried Employees
☐ Non-union Employees
☐ Management Employees
☐ Public Safety Employees
☐ General Employees
☐ X Other (specify below):

All Executives

MPP Adoption Agreement 4/30/2000
The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer.

2. The Employer hereby waives or reduces the requirement of a twelve (12) month Period of Service for participation. The required Period of Service shall be \( \frac{N}{A} \) write N/A if an Employee is eligible to participate upon employment). [344]

If this waiver or reduction is elected, it shall apply to all Employees within the Covered Employment Classification.

3. A minimum age requirement is hereby specified for eligibility to participate. The minimum age requirement is \( \frac{N}{A} \) (not to exceed age 21). Write N/A if no minimum age is declared. [341]

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows (choose one):

- Fixed Employer Contributions With Or Without Mandatory Participant Contributions.

   The Employer shall contribute on behalf of each Participant \( \frac{2.0}{N/A} \) % of earnings or $\_\_\_\_\_\_\_\_\_ for the Plan Year (subject to the limitations of Article V of the Plan). Each Participant is required to contribute \( \frac{2.0}{N/A} \) % of earnings or $\_\_\_\_\_\_\_\_\_ for the Plan Year as a condition of participation in the Plan. (Write "0" if no contribution is required.)

   If Participant Contributions are required under this option, a Participant shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

   The Employer hereby elects to "pick up" the Mandatory/Required Participant Contribution.

   \( \square \) Yes \( \square \) No [621]

   The pick-up provision specifies that the contribution is treated, for federal income tax purposes, as though it is made by the employer. The pick-up provision allows the employee to defer taxes on the employee mandatory contribution. The actual result is the same as if the contribution were a reduction in that employee’s salary by the amount of the contribution. Picked up contributions are NOT exempt from Social Security tax.

   [Note to Employer: A determination letter issued to an adopting Employer is not a ruling by the Internal Revenue Service that Participant contributions that are picked up by the Employer are not includable in the Participant’s gross income for federal income tax purposes. The Employer may seek such a ruling.]
[Picked up contributions are excludable from the Participant's gross income under section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 81-35, 1981-1 C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as employee contributions, are being paid by the Employer in lieu of contributions by the employee; and (2) the employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the plan.]

☐ Fixed Employer Match of Participant Contributions.

The Employer shall contribute on behalf of each Participant _____% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed _____% of Earnings or $_____. Under this option, there is a single, fixed rate of Employer contributions, but a Participant may decline to make the required Participant contributions in any Plan Year, in which case no Employer contribution will be made on the Participant's behalf in that Plan Year.

☐ Variable Employer Match of Participant Contributions.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____ % of the contributions made by the Participant for the Plan Year (not including Participant contributions exceeding _____% of Earnings or $__________________);

PLUS _____ % of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Participant contributions exceeding in the aggregate _____% of Earnings or $__________________).

Employer Contributions on behalf of a Participant for a Plan Year shall not exceed $____________ or _____% of Earnings, whichever is ______more or ______less.

2. Each Participant may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Section 4.05 and Article V of the Plan.

☐ Yes ☐ No
3. Employer contributions and Participant contributions shall be contributed to the Trust in accordance with the following payment schedule: (please circle one choice)

- Bi-Weekly
- Weekly
- Semi-Weekly
- Bi-Monthly
- Monthly
- Semi-Monthly
- Bi-Quarterly
- Quarterly
- Semi-Quarterly
- Bi-Annually
- Annually
- Semi-Annually

VII. -- EARNINGS

Earnings, as defined under Section 2.09 of the Plan, shall include:

(a) Overtime
   - Yes
   - No

(b) Bonuses
   - Yes
   - No

VIII. LIMITATION ON ALLOCATIONS

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Sections 5.02 and 5.03 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (f) of the Plan will apply unless another method has been indicated below.

   - Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any excess amounts, in a manner that precludes Employer discretion.)

   N/A

2. If the Participant is or has ever been a participant in a defined benefit plan maintained by the Employer, and if the limitation in Section 5.03 of the Plan would be exceeded, then the Participant's Projected Annual Benefit under the defined benefit plan shall be reduced in accordance with the terms thereof to the extent necessary to satisfy such limitation. If such plan does not provide for such reduction, or if the limitation is still exceeded after the reduction, annual additions shall be reduced to the extent necessary in the manner described in Sections 5.02 and 5.02. The methods of avoiding the limitation described in this paragraph will not apply if the Employer indicates another method below.
Other Method. (Note to Employer: Provide below language which will satisfy the 1.0 limitation of section 415(e) of the Code. Such language must preclude Employer discretion. See section 1.415-1 of the Regulations for guidance.)

N/A

3. The limitation year is the following 12-consecutive month period:

July 1 - June 30

IX. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule, subject to (1) the minimum vesting requirements as noted and (2) the concurrence of the Plan Administrator.

<table>
<thead>
<tr>
<th>Years of Service Completed</th>
<th>Percent Vesting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zero</td>
<td>100%</td>
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<td>_____%</td>
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<tr>
<td>Nine</td>
<td>_____%</td>
</tr>
<tr>
<td>Ten</td>
<td>_____%</td>
</tr>
</tbody>
</table>

X. Loans are permitted under the Plan, as provided in Article XIII:

[ ] Yes  [ ] No

XI. The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

XII. The Plan Administrator hereby agrees to inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan.

XIII. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST.

The Employer hereby agrees to the provisions of the Plan and Trust.
XIV. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

XV. An adopting Employer may not rely on a determination letter issued by the National or District Office of the Internal Revenue Service as evidence that the Plan is qualified under Section 401 of the Internal Revenue Code. In order to obtain reliance with respect to plan qualification, the Employer must apply to the appropriate key district office for a determination letter.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this 27 day of November, 2002.

EMPLOYER

By: ________________________________

Title: Risk Manager

Attest: ________________________________

ACCEPTED: ICMA RETIREMENT CORPORATION

By: ________________________________

Title: Corporate Secretary

Attest: ________________________________
A RESOLUTION ESTABLISHING A MONEY PURCHASE RETIREMENT PLAN TO BE ADMINISTERED BY THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION FOR CITY OF MODESTO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, AND AUTHORIZING CITY OF MODESTO RISK MANAGER TO BE COORDINATOR FOR THE PLAN, ACCOUNT NO. 108215

WHEREAS, the City of Modesto has employees rendering valuable services, and

WHEREAS, the establishment of a Money Purchase Retirement Plan benefits employees by providing funds for retirement and funds for the beneficiaries in the event of death, and

WHEREAS, the City of Modesto desires to establish a Money Purchase Retirement Plan for City of Modesto unrepresented Management and Confidential employees, and

WHEREAS, the City of Modesto desires that said Money Purchase Retirement Plan be administered by the ICMA Retirement Corporation and that the funds held under such plan be invested in the ICMA Retirement Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plan,

NOW THEREFORE BE IT RESOLVED that the City of Modesto hereby establishes or has established a Money Purchase Retirement Plan (the “Plan for Unrepresented Management and Confidential Employees”) in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust, pursuant to the specific provisions of the Adoption Agreement (executed copy attached hereto). The
Plan for Unrepresented Management and Confidential Employees shall be maintained for the exclusive benefit of eligible employees and their beneficiaries.

BE IT FURTHER RESOLVED that the City of Modesto hereby executes the Declaration of Trust of the ICMA Retirement Trust, attached hereto, intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the City of Modesto, if the assets of the plan are to be invested in the ICMA Retirement Trust.

BE IT FURTHER RESOLVED that the City of Modesto hereby agrees to serve as trustee under the Plan for Unrepresented Management and Confidential Employees and to invest funds held under the Plan for Unrepresented Management and Confidential Employees the ICMA Retirement Trust, and

BE IT FURTHER RESOLVED that the Risk Manager shall be the coordinator for the Plan for Unrepresented Management and Confidential Employees; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the ICMA Retirement Trust; shall cast, on behalf of the City of Modesto, any required votes under the ICMA Retirement Trust; may delegate any administrative duties relating to the Plan for Unrepresented Management and Confidential Employees to appropriate departments; and is authorized to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan for Unrepresented Management and Confidential Employees.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November 2002, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: 

MICHAEL D. MILICH, City Attorney
The Employer hereby establishes a Money Purchase Plan and Trust to be known as (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust. The Plan shall be known as:

The City of Modesto Non-Represented Management & Confidential Employees Money Purchase Plan & Trust

This Plan is an amendment and restatement of an existing defined contribution money purchase plan.

☐ Yes ☐ No

If yes, please specify the name of the defined contribution money purchase plan which this Plan hereby amends and restates: ____________________________

I. Employer Name: CITY OF MODESTO

II. The Effective Date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified:

January 1, 2003

III. Plan Year will mean:

☐ The twelve (12) consecutive month period which coincides with the limitation year. (See Section 5.04(i) of the Plan.)

☐ The twelve (12) consecutive month period commencing on July 1st and each anniversary thereafter.

IV. Normal Retirement Age (not to exceed age 65) shall be age 50

V. ELIGIBILITY REQUIREMENTS:

1. The following group(s) of Employees are eligible to participate in the Plan:

☐ All Employees
☐ All Full-Time Employees
☐ Salaried Employees
☐ Non-union Employees
☐ Management Employees
☐ Public Safety Employees
☐ General Employees
☒ Other (specify below):
    Non-Represented Management & Confidential Employees
The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer.

2. The Employer hereby waives or reduces the requirement of a twelve (12) month Period of Service for participation. The required Period of Service shall be \( N/A \) (write \( N/A \) if an Employee is eligible to participate upon employment).

If this waiver or reduction is elected, it shall apply to all Employees within the Covered Employment Classification.

3. A minimum age requirement is hereby specified for eligibility to participate. The minimum age requirement is \( N/A \) (not to exceed age 21). Write \( N/A \) if no minimum age is declared.

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows (choose one):

   [ ] Fixed Employer Contributions With Or Without Mandatory Participant Contributions.

   The Employer shall contribute on behalf of each Participant \( 1.0 \% \) of earnings or \( \_\_\_N/A\_\_) for the Plan Year (subject to the limitations of Article V of the Plan). Each Participant is required to contribute \( 1.0 \% \) of earnings or \( \_\_\_N/A\_\_) for the Plan Year as a condition of participation in the Plan. (Write “0” if no contribution is required.)

   If Participant Contributions are required under this option, a Participant shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

   The Employer hereby elects to “pick up” the Mandatory/Required Participant Contribution.

   [ ] Yes [ ] No

   The pick-up provision specifies that the contribution is treated, for federal income tax purposes, as though it is made by the employer. The pick-up provision allows the employee to defer taxes on the employee mandatory contribution. The actual result is the same as if the contribution were a reduction in that employee’s salary by the amount of the contribution. Picked up contributions are NOT exempt from Social Security tax.

   [Note to Employer: A determination letter issued to an adopting Employer is not a ruling by the Internal Revenue Service that Participant contributions that are picked up by the Employer are not includable in the Participant’s gross income for federal income tax purposes. The Employer may seek such a ruling.]

MPP Adoption Agreement 4/30/2000
[Picked up contributions are excludable from the Participant's gross income under section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 81-35, 1981-1 C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as employee contributions, are being paid by the Employer in lieu of contributions by the employee; and (2) the employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the plan.]

☐ Fixed Employer Match of Participant Contributions.

The Employer shall contribute on behalf of each Participant ____% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed ____% of Earnings or $_____. Under this option, there is a single, fixed rate of Employer contributions, but a Participant may decline to make the required Participant contributions in any Plan Year, in which case no Employer contribution will be made on the Participant's behalf in that Plan Year.

☐ Variable Employer Match Of Participant Contributions.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

______% of the contributions made by the Participant for the Plan Year (not including Participant contributions exceeding ____% of Earnings or $__________________________);

PLUS ____% of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Participant contributions exceeding in the aggregate ____% of Earnings or $__________________________).

Employer Contributions on behalf of a Participant for a Plan Year shall not exceed $________________ or ____% of Earnings, whichever is _____ more or _____ less.

2. Each Participant may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Section 4.05 and Article V of the Plan.

☐ Yes  ☐ No
3. Employer contributions and Participant contributions shall be contributed to the Trust in accordance with the following payment schedule: (please circle one choice)

<table>
<thead>
<tr>
<th></th>
<th>Bi-Weekly</th>
<th>Weekly</th>
<th>Semi-Weekly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bi-Monthly</td>
<td>Monthly</td>
<td>Semi-Monthly</td>
</tr>
<tr>
<td>3</td>
<td>Bi-Weekly</td>
<td>1 Weekly</td>
<td>2 Semi-Weekly</td>
</tr>
<tr>
<td>6</td>
<td>Bi-Monthly</td>
<td>4 Monthly</td>
<td>5 Semi-Monthly</td>
</tr>
<tr>
<td>9</td>
<td>Bi-Weekly</td>
<td>7 Quarterly</td>
<td>8 Semi-Quarterly</td>
</tr>
<tr>
<td>10</td>
<td>Bi-Monthly</td>
<td>10 Annually</td>
<td>11 Semi-Annually</td>
</tr>
</tbody>
</table>

VII. EARNINGS

Earnings, as defined under Section 2.09 of the Plan, shall include:

(a) Overtime  □  Yes  ◐  No
(b) Bonuses    □  Yes  ◐  No

VIII. LIMITATION ON ALLOCATIONS

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Sections 5.02 and 5.03 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (f) of the Plan will apply unless another method has been indicated below.

□  Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any excess amounts, in a manner that precludes Employer discretion.)

N/A

2. If the Participant is or has ever been a participant in a defined benefit plan maintained by the Employer, and if the limitation in Section 5.03 of the Plan would be exceeded, then the Participant’s Projected Annual Benefit under the defined benefit plan shall be reduced in accordance with the terms thereof to the extent necessary to satisfy such limitation. If such plan does not provide for such reduction, or if the limitation is still exceeded after the reduction, annual additions shall be reduced to the extent necessary in the manner described in Sections 5.02 and 5.02. The methods of avoiding the limitation described in this paragraph will not apply if the Employer indicates another method below.
IX. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule, subject to (1) the minimum vesting requirements as noted and (2) the concurrence of the Plan Administrator.

<table>
<thead>
<tr>
<th>Years of Service Completed</th>
<th>Percent Vesting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zero</td>
<td>100 %</td>
</tr>
<tr>
<td>One</td>
<td>%</td>
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<tr>
<td>Two</td>
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<td>Three</td>
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<td>Eight</td>
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<tr>
<td>Nine</td>
<td>%</td>
</tr>
<tr>
<td>Ten</td>
<td>%</td>
</tr>
</tbody>
</table>

X. Loans are permitted under the Plan, as provided in Article XIII:

☐ Yes  ☑ No

XI. The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

XII. The Plan Administrator hereby agrees to inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan.

XIII. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST.

The Employer hereby agrees to the provisions of the Plan and Trust.
XIV. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

XV. An adopting Employer may not rely on a determination letter issued by the National or District C of the Internal Revenue Service as evidence that the Plan is qualified under Section 401 of the Internal Revenue Code. In order to obtain reliance with respect to plan qualification, the Employer must apply to the appropriate key district office for a determination letter.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this 27 day of Nov, 2002.

EMPLOYER

By: ______________________________

Title: Risk Manager

Attest: ____________________________

ACCEPTED: ICMA RETIREMENT CORPORATION

Paul F. Syre

Title: Corporate Secretary

Attest: ____________________________
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-576

A RESOLUTION TO ESTABLISH THE MANDATORY EMPLOYEE CONTRIBUTION FOR ALL PLANS AND FOR THE INCLUSION OF NON-SWORN, UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES IN THE MONEY PURCHASE PLAN WITH A 1% CITY CONTRIBUTION

WHEREAS, by Resolution No. 2000-274 which became effective June 6, 2000, the City Council authorized the establishment of a Money Purchase Plan for the benefit of the City Manager. On June 11, 2002, by Council Resolution No. 2002-307, the City Council authorized the establishment of additional plans to cover Fire Battalion Chiefs, Fire Division Chiefs, Police Captains, Executives and Charter Officers, and

WHEREAS, Council Resolution No. 2002-307 established the City-paid contribution level for each category, but did not establish the amount of the mandatory employee contribution. Since there will be three separate City-paid levels of contribution, it will be necessary to establish three distinct plans to recognize each category. Since all of the Charter Officers will be treated equally, it is advantageous to amend the current plan to include the City Attorney and the City Clerk along with the City Manager, at a mandatory employee contribution level of 4%, and,

WHEREAS, each category will be required to contribute the same amount as the City-paid contribution to participate in the Plan, which will be 2% for the Executives, other than Charter Officers, and 1% for unrepresented Management and Confidential employees, and

WHEREAS, funds are budgeted in FY 02-03 Budget. Plan changes will become effective January 1, 2003,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the existing Money Purchase Plan be amended for the City Manager to allow participation by all Charter Officers at a mandatory contribution level of 4%; establish separate Money Purchase Plans for Executives at a mandatory contribution level of 2%; and unrepresented Management and Confidential employees at a mandatory contribution level of 1%; and, approve the inclusion of non-sworn, unrepresented Management and Confidential employees in the Plan, with a 1% City contribution.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION ACCEPTING A DEED OF AVIGATION AND HAZARD EASEMENT FROM TUOLUMNE PROPERTIES, L.L.C., THAT ALLOWS AIRCRAFT FLIGHT OVER RESIDENTIAL PROPERTY WITHIN THE RIVER RANCH PLANNED COMMUNITY ADJACENT TO MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER TO SIGN THE ACCEPTANCE OF THIS EASEMENT OR OTHER SUBSEQUENT SIMILAR EASEMENTS FOR OTHER DEVELOPMENTS ON BEHALF OF THE CITY.

WHEREAS, Tuolumne Properties, L.L.C., are proposing to subdivide and develop property adjacent to Modesto City-County Airport into a residential area, and

WHEREAS, Modesto City-County Airport is a commercial service airport identified as part of the National Airport Intergraded Systems Plan and Stanislaus County has, as required by State law, developed an Airport Land Use Commission (ALUC) Compatible Land Use Plan (CLUP) which includes the Modesto City-County Airport, and

WHEREAS, the purpose of the state law is to protect airports within the state of California from incompatible land uses, and

WHEREAS, Modesto City-County Airport is an active airport with commercial and general aviation aircraft arrivals and departures that will be flying directly over the River Ranch Planned Community, and

WHEREAS, airport staff has requested the City of Ceres to require property developers subdividing and developing property within Modesto City-County Airport’s area of influence to provide the City of Modesto with a Deed of Avigation and Hazard Easement, and

WHEREAS, Tuolumne Properties, L.L.C., and other subsequent developers, have or will agree to provide the City of Modesto with a Deed of Avigation and Hazard Easement
that will allow the continuous over flight of aircraft over the residential areas being
developed within the airport's area of influence,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
Modesto that it hereby accepts the Deed of Avigation and Hazard Easement from Tuolumne
Properties, L.L.C., and any subsequent similar easements by future property developers as a
condition to subdivide and develop property within the area of influence of Modesto City-
County Airport.

BE IT FURTHER RESOLVED that the City Manager, or his authorized
representative, is authorized to sign the Deeds of Avigation and Hazard Easements on behalf
of the City of Modesto.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

by Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-578

A RESOLUTION ACCEPTING IMPROVEMENTS IN THE LAWSONS TWENTY SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING RELEASE OF BONDS

WHEREAS, FLORSHEIM BROS., a California General Partnership, by Florsheim Properties, a California Corporation, Partner, is the subdivider of the Lawsons Twenty Subdivision, and

WHEREAS, FLORSHEIM BROS., a California General Partnership, by Florsheim Properties, a California Corporation, Partner, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of $951,480.00 and $475,740.00, respectively, and

WHEREAS, FLORSHEIM BROS., a California General Partnership, by Florsheim Properties, a California Corporation, Partner, has filed a warranty bond in the amount of $95,148.00 to guarantee improvements in the Lawsons Twenty Subdivision, and

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

WHEREAS, the Engineering & Transportation Director has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that:

1. The improvements in the Lawsons Twenty Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $951,480.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $475,740.00 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.
4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $95,148.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.
5. The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Conrad, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2002-579  

A RESOLUTION ACCEPTING IMPROVEMENTS IN THE MILLBROOK ESTATES UNIT NO. 4 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING RELEASE OF BONDS

WHEREAS, BRIGHT DEVELOPMENT, a California Corporation, is the subdivider of the Millbrook Estates Unit No. 4 Subdivision, and

WHEREAS, BRIGHT DEVELOPMENT, a California Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amount of $326,563.00 and $163,281.50, respectively, and

WHEREAS, BRIGHT DEVELOPMENT, a California Corporation, has filed a warranty bond in the amount of $32,656.00 to guarantee improvements in the Millbrook Estates Unit No. 4 Subdivision, and

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

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

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

1. The improvements in Millbrook Estates Unit No. 4 Subdivision are hereby accepted and the City Clerk is hereby authorized to file a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $326,563.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $163,281.50 sixty (60) days after the recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee improvements in the amount of $32,656.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jeann Zahry, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-580

A RESOLUTION APPROVING THE FINAL MAP OF BANYON ESTATES
SUBDIVISION OF THE CITY OF MODESTO

WHEREAS, GREG AVERY, INC., a California corporation, is possessed of a
tract of land situated in the City of Modesto, County of Stanislaus, consisting of 8.25
acres, known as BANYON ESTATES ("SUBDIVISION"), in the Village One Specific
Plan Area,

WHEREAS, a tentative map of said tract was approved by the Planning
Commission of the City of Modesto on the 7th day of January, 2002, and

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

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

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

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be
authorized to execute and attest, respectively, an agreement with subdivider as required
by Section 4-4.604(c) of the Modesto Municipal Code.

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

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

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

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

By
ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-581

A RESOLUTION APPROVING THE FINAL MAP OF THE PAPATONE WEST SUBDIVISION OF THE CITY OF MODESTO

WHEREAS, MODESTO ANNEX DEVELOPERS, L.P., a California limited partnership, by Modesto Annex Investors, LLC, a California limited liability company, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 39.04 acres, known as the PAPATONE WEST ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 5th day of February, 2001, and

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

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

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

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

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

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

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: Conrad

ATTEST: 
JEAN ZAHR, City Clerk

(SEAL)

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

By ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-582

A RESOLUTION APPROVING THE FINAL MAP OF THE PAPATONE EAST
SUBDIVISION OF THE CITY OF MODESTO

WHEREAS, Meritage Homes of Northern California, Inc., a California
Corporation, is possessed of a tract of land situated in the City of Modesto, County of
Stanislaus, consisting of 17.50 acres, known as PAPATONE EAST ("SUBDIVISION"),
in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning
Commission of the City of Modesto on the 5th day of February, 2001, and

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

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

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

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

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

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

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: Conrad

ATTEST: Jean Zahr, City Clerk

(SEAL)

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

By ALISON A. BARRATT-GREEN
Senior Deputy City Attorney
A RESOLUTION AWARDSING A $183,153 CONTRACT TO BOYLE ENGINEERING CORPORATION FOR ENGINEERING DESIGN SERVICES FOR THE PROJECT TITLED “NITRATE TREATMENT SYSTEM FOR THE GRAYSON COMMUNITY WATER WELLS”.

WHEREAS, following a Request for Proposals which was sent to 23 engineering firms, two proposals for a Nitrate Treatment System for the Grayson Community Water Wells were submitted to the City, and

WHEREAS, the proposals and interviews for the engineering design services for said project were rated by the selection team, and Boyle Engineering Corporation was rated highest, in accordance with Administrative Directive 3.1, and

WHEREAS, the Engineering and Transportation Director has recommended that Boyle Engineering Corporation, be accepted as the most qualified engineering consulting firm, and

WHEREAS, the Engineering & Transportation Director has recommended accepting the proposal of Boyle Engineering Corporation, in an amount not to exceed $183,153,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards a contract for engineering design services for the project titled “Nitrate Treatment System for the Grayson Water Wells” to Boyle Engineering Corporation, in an amount not to exceed $183,153.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ZAHN, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-584

A RESOLUTION APPROVING THE FY 2002-2003 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY ("WASTE-TO-ENERGY") FACILITY

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive Committee ("Executive Committee") to prepare an annual budget for each fiscal year, which Waste-to-Energy annual budget is to be submitted to the City Council and Board of Supervisors for approval, and

WHEREAS, at its September 12, 2002, meeting the Solid Waste-to-Energy Executive Committee considered the 2002/2003 budget as shown in the attached Exhibit "A", and the Executive Committee unanimously approved forwarding the 2002/2003 Waste-to-Energy budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2002-2003 Waste-to-Energy Project Budget, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference, as recommended by the City/County Solid Waste-to-Energy Executive Committee.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>FY -99-00</th>
<th>FY 00-01</th>
<th>FY 01-02</th>
<th>FY 02-03 Proposed</th>
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<td>500.00</td>
<td>0.00</td>
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<td>6160 Maintenance- Equipment</td>
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<td>6220 Memberships</td>
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<td>8,500.00</td>
<td>12,000.00</td>
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<td>168.16</td>
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<tr>
<td>6299 Exp. Equipment - To $5,000</td>
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<td>6299 Office Equipment Under $1,000</td>
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<tr>
<td>6280 Photo Services &amp; Supplies</td>
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<tr>
<td>6300 Professional &amp; Special Svcs</td>
<td><strong>100,000.00</strong></td>
<td><strong>200,000.00</strong></td>
<td>174,000.00</td>
<td>26,387.50</td>
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<td>6328 Contracts</td>
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<td>108,388.70</td>
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<td>6341 Admin. Services (City)</td>
<td><strong>123,000.00</strong></td>
<td><strong>129,675.94</strong></td>
<td><strong>130,000.00</strong></td>
<td><strong>150,000.00</strong></td>
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<td><strong>84,764.87</strong></td>
<td><strong>50,000.00</strong></td>
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<td>6399 Outside dp services</td>
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<td>6500 Publications &amp; Legal Notices</td>
<td>200.00</td>
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<td>200.00</td>
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<td>6510 Rents &amp; Leases-Equipment</td>
<td>1,000.00</td>
<td>0.00</td>
<td>1,000.00</td>
<td>0.00</td>
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<tr>
<td>6530 Rents &amp; Leases-Struct &amp;Grnds</td>
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<td>4,000.00</td>
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<td>6578 Education &amp; Training</td>
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<td>1,000.00</td>
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<td>6592 Meeting Allowance</td>
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<td>217.56</td>
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<td>6671 Service Charges</td>
<td>11,817,848.00</td>
<td>10,199,632.56</td>
<td>9,980,842.00</td>
<td>6,718,697.96</td>
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<td>6704 Other Travel Expenses</td>
<td>15,000.00</td>
<td>1,085.98</td>
<td>7,500.00</td>
<td>1,367.96</td>
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<td>7280 Depreciation &amp; Amortization</td>
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<td>0.00</td>
<td>0.00</td>
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<tr>
<td>7408 Central Services Printing</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
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<td>7425 County Counsel Services</td>
<td>21,660.00</td>
<td>18,918.39</td>
<td>23,000.00</td>
<td>6,045.12</td>
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<td>74300 Funds &gt;13-Svc dpt Billings-In</td>
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<td>0.00</td>
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<tr>
<td>74301 Funds &gt;13-Svc dpt Billings-Au</td>
<td>6,020.00</td>
<td>258.54</td>
<td>110.00</td>
<td>136.53</td>
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<tr>
<td>74302 Funds &gt;13-Svc dpt Billings-Pu</td>
<td>500.00</td>
<td>161.34</td>
<td>200.00</td>
<td>180.47</td>
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<td>7430 Service Dept Billings</td>
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<td>7430 General County Overhead</td>
<td>0.00</td>
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<td>0.00</td>
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<td>7437 Stores-Office Supplies</td>
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<tr>
<td>7452 Admin.Services (C)</td>
<td>77,000.00</td>
<td>160,566.36</td>
<td>75,000.00</td>
<td>74,796.80</td>
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<td>7488 Funds&gt;13 - A-87 charges-CEO</td>
<td>-1,069.00</td>
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<td>428.00</td>
<td>428.00</td>
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<td>7488 Funds&gt;13 - A-87 carry forward</td>
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<td>-630.00</td>
<td>0.00</td>
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<td>7488 A-87 Rollforward</td>
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<td>7488 A-87 Charges</td>
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<td>0.00</td>
<td>0.00</td>
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<td>8585 Other Operating Transfers Out</td>
<td>876,000.00</td>
<td>814,298.00</td>
<td>876,000.00</td>
<td>781,898.00</td>
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<tr>
<td>8585a Operating Transfers Out - AB 939</td>
<td>0.00</td>
<td>0.00</td>
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<tr>
<td>8585b Operating Transfers Out HHW</td>
<td>0.00</td>
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<td>0.00</td>
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<tr>
<td>8213 Office Equipment</td>
<td>0.00</td>
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<tr>
<td>8442 Pers Computers &amp; Equip.</td>
<td>0.00</td>
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<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>13,281,509.00</td>
<td>11,579,128.34</td>
<td>13,278,430.00</td>
<td>13,264,391.14</td>
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</table>

**Note:** The table above shows budget expenditures for various categories for different fiscal years. The figures indicate the planned expenditures and actual expenditures, with totals for each category. The proposed budget for the next fiscal year is also included.
## WTE Budget/Revenues

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>FY-99-00</th>
<th>FY-00-01</th>
<th>FY-01-02</th>
<th>FY 02-03</th>
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<tbody>
<tr>
<td></td>
<td>Budget</td>
<td>Revenues</td>
<td>Budget</td>
<td>Revenues</td>
</tr>
<tr>
<td>17000 Interest</td>
<td>1,378,509.00</td>
<td>1,852,415.00</td>
<td>2,094,630.00</td>
<td>1,992,798.00</td>
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<tr>
<td>17610 Fair value of</td>
<td>0.00</td>
<td>-130,925.00</td>
<td>0.00</td>
<td>415,823.00</td>
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<tr>
<td>34400 Sanitation Service</td>
<td>11,753,000.00</td>
<td>10,928,329.00</td>
<td>10,993,800.00</td>
<td>10,322,612.00</td>
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<tr>
<td>36470 Other Service Charges</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>40590 Donations &amp; Contributions</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>5,464.00</td>
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<td>40880 Misc. Reimbursement</td>
<td>150,000.00</td>
<td>167,023.00</td>
<td>190,000.00</td>
<td>249,969.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>13,281,509.00</td>
<td>12,816,642.00</td>
<td>13,278,430.00</td>
<td>12,986,666.00</td>
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<tr>
<td>Account</td>
<td>Amount</td>
<td>Description</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
<td>-----------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>60400</td>
<td>$0</td>
<td>Communications - provision for personal communications equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>61600</td>
<td>$0</td>
<td>Maintenance - provision for equipment maintenance contracts</td>
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<tr>
<td>62200</td>
<td>$12,000</td>
<td>Memberships - The project is a member of the Independent Energy Producers Association, which was formed to protect the interests of small energy producers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>62600</td>
<td>$0</td>
<td>Office Supplies - WTE letterhead, envelopes, etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>62780</td>
<td>$0</td>
<td>Books/Periodicals - provision for WTE related publications</td>
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<td></td>
</tr>
<tr>
<td>63000</td>
<td>$160,000</td>
<td>Professional and Special Services</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>$50,000: Financial Advisors - This fund is for ongoing Financial Advisor Services related to the administration of the project, such as tipping fee reviews and revenue projections.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>$8,000: Bond Logistix - Annual analysis required for tax purposes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$36,000: Legislative Lobbyist - Lobbyist to represent the project's interests with the Legislature, ISO, and other state agencies</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$6,000: Bi-annual Trust Account Audit - The project audits the Trust Account every two years.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$30,000: Energy Consultant - The Committee has authorized the CEO and City Manager to retain a consultant to assist with the resolution of issues related to the energy crisis.</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>$30,000: Auditor - Two year audit of the Resource Recovery Account.</td>
<td></td>
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<tr>
<td>63280</td>
<td>$0</td>
<td>Contracts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>63400</td>
<td>$100,000</td>
<td>Engineering Services - This is a contingency for engineering services that may be required if there are any required modifications to the facility.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>63401</td>
<td>$160,000</td>
<td>Administrative Services - This account provides for reimbursement to the City of Modesto for any staff costs associated with the project. These are as follows;</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Engineering &amp; Transportation - $30,000</td>
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<tr>
<td></td>
<td></td>
<td>City Attorney - $27,000</td>
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<tr>
<td></td>
<td></td>
<td>Solid Waste - $91,000</td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Office Expenses - $12,000</td>
<td></td>
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<tr>
<td>63640</td>
<td>$200,000</td>
<td>Legal Services - This provides for outside legal counsel for the PG&amp;E litigation, Bond counsel to the project, Bankruptcy counsel to the project, and for legal issues which may arise for other project elements, such as changes in legislation related to flow control.</td>
<td></td>
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<tr>
<td>65000</td>
<td>$200</td>
<td>Public/legal notices - provision for required legal notices</td>
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<tr>
<td>65100</td>
<td>$0</td>
<td>Rent/equipment - provision for office equipment rental</td>
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</tr>
<tr>
<td>65300</td>
<td>$0</td>
<td>Rent/structure- provision for administration space rental</td>
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<tr>
<td>66710</td>
<td>$7,770,342</td>
<td>Service Charges - This account provides for payment of the Service Fee to Ogden Martin, which includes Debt Service, O&amp;M costs, Pass Throughs and other costs.</td>
<td></td>
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</tr>
<tr>
<td>67040</td>
<td>$7,500</td>
<td>Travel Expenses - This account provides for project related travel, which may be significant this year due to the Covanta reorganization.</td>
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</tr>
<tr>
<td>68</td>
<td>$8,426,042</td>
<td>Services &amp; Supplies</td>
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<tr>
<td>Account</td>
<td>Amount</td>
<td>Description</td>
<td></td>
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<td>-------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>74080</td>
<td>$0</td>
<td>Central Services Printing</td>
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<tr>
<td>74250</td>
<td>$23,000</td>
<td>County Counsel - This covers the County's cost for County Counsel services related to the project.</td>
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<tr>
<td>74301</td>
<td>$110</td>
<td>Service Department Billing/Auditor - This covers the project related costs of the County Auditor/Controller.</td>
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<tr>
<td>74302</td>
<td>$200</td>
<td>Service Dept. Bill - Purchasing - Internal service by Purchasing Dept.</td>
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<td>74370</td>
<td>$220</td>
<td>Stores - Internal supplies</td>
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<tr>
<td>74520</td>
<td>$96,000</td>
<td>Admin Services - This account covers the project related costs of the County Department of Environmental Resources</td>
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<tr>
<td>74881</td>
<td>$428</td>
<td>A-87 Charges - Credit against County admin charges</td>
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<tr>
<td>70</td>
<td>$103,958</td>
<td>Other Charges</td>
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<td></td>
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<tr>
<td>82130</td>
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<td>Office equipment</td>
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</tr>
<tr>
<td>84420</td>
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<tr>
<td>80</td>
<td>0</td>
<td>Fixed Assets</td>
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<tr>
<td>85850</td>
<td>$810,000</td>
<td>Transfers out - $1.50/ton for HHW and $1.50/ton for AB 939</td>
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<tr>
<td>85</td>
<td>$810,000</td>
<td>Other Financial Uses</td>
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<tr>
<td></td>
<td>$9,340,000</td>
<td>Total Expenditures for FY 2001-2002</td>
<td></td>
<td></td>
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## Waste to Energy Project Budget Revenue Projections

<table>
<thead>
<tr>
<th>Account</th>
<th>Amount Budgeted</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>17000</td>
<td>$1,105,000</td>
<td>Interest - Interest on pooled cash</td>
</tr>
<tr>
<td>34400</td>
<td>$8,100,000</td>
<td>Sanitation Service - Disposal fee revenues</td>
</tr>
<tr>
<td>36470</td>
<td>$0</td>
<td>Other - Service charge</td>
</tr>
<tr>
<td>40590</td>
<td>$0</td>
<td>Donations &amp; contributions</td>
</tr>
<tr>
<td>40860</td>
<td>$135,000</td>
<td>Miscellaneous reimbursement - supplemental waste revenue and service fee credits</td>
</tr>
<tr>
<td>41450</td>
<td>$0</td>
<td>Prior period revenue</td>
</tr>
<tr>
<td></td>
<td>$9,340,000</td>
<td>Total Revenues for FY 2001-2002</td>
</tr>
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MODESTO CITY COUNCIL
RESOLUTION NO. 2002-585

A RESOLUTION AUTHORIZING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND COUNTY OF STANISLAUS RELATING TO ADMINISTRATION OF SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an “Agreement Between the City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste” (“AGREEMENT”), and

WHEREAS, the AGREEMENT established an Executive Committee to prepare an annual budget for each fiscal year prior to April 15th of each year, which Waste-to-Energy annual budget is to be submitted to the City Council and Board of Supervisors for approval prior to June 1st of each year, and

WHEREAS, the Service Agreement with Covanta requires Covanta to provide an estimate of their Service Fees for an upcoming year “Thirty (30) days prior to the end of each Contract Year”, or June 1st, which conflicts with the deadlines in the AGREEMENT, and

WHEREAS, said estimate is necessary for the preparation of an accurate budget, and

WHEREAS, at its September 12, 2002, meeting the Solid Waste-to-Energy Executive Committee unanimously approved an amendment to the AGREEMENT to change the deadline for the Executive Committee to prepare the budget to July 1st of each year, and the deadline for approval by the Council and Board of Supervisors to August 1st of each year, and
WHEREAS, Revenues generated by the project in excess of operating expenses and debt service, are required to be deposited in a Special Revenue Fund designated as the Solid Waste to Energy Fund”, which is more commonly referred to as the Resource Recovery Account, and

WHEREAS, until a recent 10-year audit was conducted, there had never been an outside, independent audit of the Resource Recovery Account, and

WHEREAS, the fund balance in this Account is now over $36 million, and

WHEREAS, the outside independent auditor who conducted a 10-year audit of the Resource Recovery Account has recommended that the Resource Recovery Account be audited every two years, and

WHEREAS, at its September 12, 2002, meeting, the Solid Waste-to-Energy Executive Committee also approved an amendment to the AGREEMENT to require that the Resource Recovery Account be audited every two years, and

WHEREAS, the AGREEMENT can be modified and amended by mutual agreement of the parties, and

WHEREAS, on October 29, 2002, the Stanislaus County Board of Supervisors approved the attached Amendment No. 1 to the AGREEMENT, and

WHEREAS, the City Council must approve this Amendment for it to become effective,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves Amendment No. 1 to the Agreement Between the City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste, a copy of which is attached hereto as Exhibit
“A” and incorporated herein by reference, as recommended by the City/County Solid Waste-to-Energy Executive Committee, with respect to changing the deadline for preparation of the budget to July 1st of each year, changing the deadline for approval by the Council and Board of Supervisors to August 1st of each year, and amending the Agreement to require that the Resource Recovery Account be audited every two years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No.1 to the Agreement.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
AGREEMENT BETWEEN CITY OF MODESTO AND COUNTY OF STANISLAUS RELATING TO ADMINISTRATION OF SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE.

This AGREEMENT, made and entered into in the City of Modesto, County of Stanislaus, State of California, this 17th day of December, 1985, by and between the CITY OF MODESTO, a municipal corporation of the State of California hereinafter called "CITY", and the COUNTY OF STANISLAUS, a body corporate and politic and a political subdivision of the State of California hereinafter called "COUNTY".

WITNESSETH:

WHEREAS, CITY and COUNTY each recognize the need to develop alternative methods of disposing of solid waste materials, and

WHEREAS, CITY and COUNTY on December 17, 1985, jointly entered into a SERVICE AGREEMENT with STANISLAUS WASTE ENERGY COMPANY for disposal of solid waste materials, and

WHEREAS, CITY and COUNTY each recognize the need to jointly share in the administration and costs of said Service Agreement,

NOW, THEREFORE, it is mutually agreed between CITY and COUNTY as follows:

1. The purpose of this Agreement shall be the joint administration of the SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID WASTE entered into on December 17, 1985 by CITY and COUNTY with STANISLAUS WASTE ENERGY COMPANY. The parties agree that they shall, pursuant to the joint exercise of their powers as authorized by Sections 6500 et seq. of the California Government Code, administer said Service Agreement in a manner set forth in this Agreement.
2. There is hereby created a SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE which shall consist of two (2) members of the MODESTO'S City Council and two (2) members of the COUNTY'S Board of Supervisors, as selected by their respective legislative bodies and serving at their pleasure. Said SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE shall serve in an advisory capacity to the respective legislative bodies of the parties to this agreement and shall also act in an advisory capacity to the SOLID WASTE-TO-ENERGY staff as hereinafter described.

Said committee shall select a chairperson from among its members and shall adopt rules and regulations for holding its meetings and conducting its business. Each of the parties hereto shall appoint sufficient personnel to act in a staff capacity for said Committee as more fully described below.

3. The SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE shall prepare or cause to be prepared, prior to April 15 of each year, a budget for the following fiscal year commencing July 1st, for the administration of the Service Agreement hereinafore described. Said budget shall be submitted to the legislative bodies of the CITY and COUNTY for approval by June 1st of each fiscal year. Upon approval by CITY'S and COUNTY'S legislative bodies, the SOLID WASTE-TO-ENERGY staff shall administer the Service Agreement in accordance with said budget and pursuant to the terms of this Agreement.

4. None of the parties hereto shall sell, assign, transfer, convey, let or sublet their respective interests in any of the real or personal property included within the Service Agreement whether owned separately or jointly without the consent of the other party hereto, in writing, first had and obtained.
5. Title to real property presently owned or in the process of being acquired by CITY or COUNTY as more fully described in said Service Agreement or Facility Site Lease Agreement which shall be entered into by and between COUNTY and STANISLAUS WASTE ENERGY COMPANY shall remain in the party or parties presently owning or acquiring the same. The owner of each such real property hereby authorizes the necessary portions of its use for purposes of this Agreement, the Service Agreement and the Facility Site Lease Agreement and further agrees that the necessary portions of said properties will not be used for any other purpose during the term of this Agreement, the Service Agreement or Facility Site Lease Agreement without first obtaining the prior written consent of the other party to this Agreement. However, the owner or owners of such real property reserve the right to the use of remaining portions of said real property for present and future uses for purposes not inconsistent with the intent of this Agreement, the Service Agreement, or Facility Site Lease Agreement.

The parties hereto further agree that nothing in this Agreement shall impair, modify, change, alter, amend or otherwise affect any other rights or obligations either party may have which is currently in effect.

6. For the purpose of providing funds for the administration of this Agreement, each of the parties hereto agrees to establish fees and budgets for said purposes during each fiscal year in order to meet their mutual obligations under the Service Agreement, commencing with the 1986-87 fiscal year, and may, if necessary, establish such budgets earlier.

7. The monies budgeted each fiscal year by the parties hereto pursuant to Paragraph 6 above shall be placed in a Special Revenue fund to be
designated as the SOLID WASTE-TO-ENERGY FUND. Except as otherwise provided herein, all monies relating to said fund including but not limited to contributions of CITY and COUNTY and all other revenues generated and/or acquired to meet the mutual obligations of the parties under the Service Agreement, shall be administered by SOLID WASTE-TO-ENERGY staff under direction of the SOLID WASTE-TO-ENERGY EXECUTIVE COMMITTEE.

8. It is expressly agreed by and between the parties hereto that they shall be jointly and severally liable for any and all liabilities for death and personal injuries of any person or persons and for property damages and losses as may arise out of or as may occur in the course of each of the parties obligations with respect to this Agreement and the Service Agreement.

9. The term of this Agreement shall be for the life of the Service Agreement as hereinabove described.

10. The parties to this Agreement acknowledge that their obligations under the Service Agreement are joint and several.

11. This Agreement may be modified and amended at any time by the Mutual Agreement of the parties hereto in writing, provided; however, no such amendment shall affect the obligations of the parties under the Service Agreement.

In WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation of the State of California, has caused this Agreement to be executed by its City Manager and attested by its City Clerk under authority of Resolution adopted by the Council of the City of Modesto, and the COUNTY OF STANISLAUS, a body corporate and politic and a political subdivision of the State of California, caused its corporate name to be subscribed by its Chief Administrative Officer and attested by the Clerk of the Board of Supervisors of the County of.
Stanislaus, the governing body of the County of Stanislaus, who are thereunto duly authorized by Resolution of said Board.

Dated: **12/19/85**

CITY OF MODESTO, a municipal corporation

By

MARTH LIPSKY, City Manager

ATTEST:

MURRINE COYLE, City Clerk

APPROVED AS TO FORM:

ELWYN L. JOHNSON, City Attorney

COUNTY OF STANISLAUS, State of California

By

REAGAR M. WILSON, Deputy Administrative Officer of the County of Stanislaus, State of California

ATTEST:

BETH MEYERSON MARTINEZ, Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By

APPROVED AS TO FORM:

MICHAEL H. KRAUSNICK

County Counsel
A RESOLUTION TO IMPLEMENT LOCAL GOVERNMENT CONTROL MEASURES IN THE PARTICULATE MATTER-10 PLAN FOR THE SAN JOAQUIN VALLEY

WHEREAS, the San Joaquin Valley Air Pollution Control District (SJVAPCD) has been designated by the Governor of California, as the regional air quality planning agency in the San Joaquin Valley, and

WHEREAS, the Environmental Protection Agency has issued a finding that the San Joaquin Valley nonattainment area has failed to attain the Particulate Matter-10 standard by December 31, 2001, in accordance with the Clean Air Act, and

WHEREAS, the Environmental Protection Agency has indicated that the Particulate Matter-10 Plan is required to include Best Available Control Measures (BACM), and

WHEREAS the Economic Development Committee reviewed this project at its meeting on November 14, 2002,

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

SECTION 1. That the Council of the City of Modesto agrees to proceed with a good faith effort to implement the measures identified in Exhibit I as Best Available Control Measures for Particulate Matter which are made a part of this resolution.

SECTION 2. That the Council of the City of Modesto commits to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or
processes of various state and federal agencies, the City agrees to consider modifications of the funding or schedules for implementation actions, if necessary.

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

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

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich
MICHAEL D. MILICH, City Attorney
**EXHIBIT 1**
BEST AVAILABLE CONTROL MEASURES FOR PARTICULATE MATTER

<table>
<thead>
<tr>
<th>No.</th>
<th>Control Measure</th>
<th>Measure Description</th>
<th>Authorizing Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Paving or Stabilizing Unpaved Roads and Alleys</td>
<td>All existing and new streets being used for public right of way shall be paved.</td>
<td>The City of Modesto Standard Specifications adopted by Resolution 2001-560 require that all new streets be paved.</td>
</tr>
<tr>
<td>3</td>
<td>Curbing, Paving or Stabilizing Shoulders on Paved Roads(includes painting stripe on outside of travel lane)</td>
<td>All newly constructed roads shall be required to install curbs. Where no curbs exist or it is not practical to construct curbs a paint stripe shall be installed on the outside travel lane.</td>
<td>The City of Modesto Standard Specifications adopted by Resolution 2001-560 require installation of curbs on all new streets.</td>
</tr>
<tr>
<td>4</td>
<td>Frequent Routine Sweeping of Paved Roads</td>
<td>All existing streets within the City of Modesto shall be swept at regular intervals.</td>
<td>N/A</td>
</tr>
<tr>
<td>5</td>
<td>Intensive street cleaning requirements for industrial paved roads and streets providing industrial/construction sites</td>
<td>All City controlled construction sites shall be required to comply with Rule 8041 &quot;Carryout and Trackout&quot;. Streets serving industrial sites will be evaluated to determine if additional sweeping is required.</td>
<td>The City of Modesto Standard Specifications adopted by Resolution 2001-560 require compliance with Rule 8041 by reference.</td>
</tr>
<tr>
<td>6</td>
<td>Erosion cleanup</td>
<td>In the event that eroded soil is deposited on a public street, the material shall be removed by City crews and the area swept.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-587

A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO FORMALY SOLICIT REQUEST FOR BIDS FOR TIRE RECAPPING AND RELATED SERVICES, FOR FY 2002/2003 FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS.

WHEREAS, the Operations and Maintenance Department - Fleet Division has requested tire recapping and related services for FY 2002/2003 for a three (3) year agreement with two (2) one-year extension options, and

WHEREAS, the anticipated annual cost for tire recapping and related services is $27,000.00, and

WHEREAS, the average life span of a recapped tire is equivalent to that of a new tire, and

WHEREAS, each year the Operations and Maintenance Department - Fleet Division anticipates recapping approximately 115 tires of various size for its fleet of buses and trucks, and

WHEREAS, the average cost saving of a recapped tire versus the purchase of a new tire is approximately $90.00, and

WHEREAS, the anticipated annual cost savings to the City for tire recapping is approximately $10,350.00, and

WHEREAS, over the life span of a five (5) year agreement the projected savings to the City on recapping tires versus purchasing new tires would be approximately $51,750.00, and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, the cost of these services over the life of the contract will exceed the $50,000.00 threshold,
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that formal solicitation of bids for tire recapping and related services is hereby approved as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for tire recapping and related services, for FY 2002/2003 for a three (3) year agreement with two (2) one-year extension options, to be opened in the office of the City Clerk, 1010 10th Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

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

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-588

A RESOLUTION TO ACCEPT THE "NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM STORMWATER PERMIT – NPDES NO. CAS8083526"

WHEREAS, on November 16, 1990, the Environmental Protection Agency published regulations that required municipalities over 100,000 in population to apply for a National Pollution Discharge Elimination System (NPDES) municipal stormwater permit, and

WHEREAS, the City submitted Part 1 of the Application as required by May 18, 1992, and

WHEREAS, Council Resolution 93-278 directed staff to submit Part 2 of the NPDES Permit Application by May 17, 1993, to the Central Valley Regional Water Quality Control Board, and

WHEREAS, Resolution 98-644 authorized the City to file a Report of Waste Discharge on its municipal stormwater discharge, with the Central Valley Regional Water Control Board (RWQCB) by December 27, 1998, which Report of Waste Discharge was essentially a stormwater permit reapplication, and

WHEREAS, the Report of Waste Discharge must be renewed on a five year basis, and

WHEREAS, City Staff, in conjunction with, Larry Walker Associates, and the Regional Water Quality Control Board (RWQCB) staff worked together to create a Permit that reflects local conditions and addresses water quality concerns of the Modesto Urban Area, and

WHEREAS, the RWQCB schedule did not allow time for the Stormwater Permit to be taken to the full City Council prior to the RWQCB consideration date of October 18, 2002, and

WHEREAS, following staff’s presentation and explanation of benefits derived under the new Permit, the RWQCB approved the Permit at its October 18, 2002, meeting, and
WHEREAS, the draft Permit was considered by the Economic Development Committee on October 14, 2002, and recommended approval of the Permit to the full Council, and

WHEREAS, the Economic Development Committee directed staff to accept the Permit as drafted, providing that the City reserve the right to appeal any future negative interpretations of the permit by the RWQCB Staff,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby accepts the NPDES Stormwater Permit No. CAS8083526 prepared for the City of Modesto, a copy of as which is attached hereto as Exhibit A.

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

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

MICHEAL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-589

A RESOLUTION REJECTING BIDS FOR FUEL CARDLOCK SERVICES AND AUTHORIZING RE-BIDDING FOR THE SERVICES.

WHEREAS, the bids received for Fuel Cardlock Services were opened at 11:00 a.m. on May 14, 2002, in the office of the City Clerk, and

WHEREAS, during the bid evaluation process, staff determined that some of the specifications were too restrictive to allow inclusion of all vendors, and

WHEREAS, staff recommends all bids be rejected and the specifications be revised to allow for increased vendor inclusion and a more competitive bidding process, and

WHEREAS, both MMC 8-3.203 and the bid language allow for all bids to rejected,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bids received for Fuel Cardlock Services, opened in the office of the City Clerk on May 14, 2002, are hereby rejected.

BE IT FURTHER RESOLVED that request for proposals the fuel cardlock services with modified specifications are hereby authorized.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Mayor Sabatino, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-590

A RESOLUTION ESTABLISHING POLICIES AND PROCEDURES FOR ACCESSMODESTO.

WHEREAS, the City Of Modesto does not have a policy with respect to the use of AccessModesto by the public, and

WHEREAS, the transition of the Public-Education-Government (PEG) operation from AT&T Broadband to the City of Modesto was successfully completed in August and is now fully operational with on-air programming 24 hours a day/seven days a week, and

WHEREAS, this transition is necessary for the playback of programming on all AccessModesto channels, and

WHEREAS, the City Council hereby finds and determines that it is in the public interest for the City Council to adopt a policy with respect to the use of AccessModesto by the public,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby approves implementation of the attached operating policies and procedures for the continued operation of AccessModesto Cable Television.

RESCINDED
4-6-04

This Resolution was rescinded by Modesto City Council Resolution No. 2004-190
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: 

APPROVED AS TO FORM: 

By: MICHAEL D. MILICH, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-591

A RESOLUTION AMENDING THE FISCAL YEAR 2002-03 ANNUAL BUDGET TO APPROPRIATE FUNDS TO THE CITY MANAGER’S BUDGET FOR THE ESTABLISHMENT OF AN OPERATING BUDGET FOR ACCESSMODESTO.

WHEREAS, Council has approved the City’s operation of the Public-Education-Government channels, and

WHEREAS, the need exists to fund an annual operating budget for AccessModesto, and

WHEREAS, the funding exists in the general fund reserves as part of the Cable Settlement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2002-03 Annual Budget is hereby amended to increase the 2002-03 City Manager’s Operating Budget by $90,000, as follows:

Transfer from: Acct#0100-800-8000-8003

Transfer to:  Acct#0100-020-0203-0110 (staffing)  $40,000
             Acct#0100-020-0201-various objects  $50,000

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 November, 2002, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr

JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
A RESOLUTION APPROVING A ONE-YEAR AGREEMENT WITH QUALITY VIDEO FOR GRANTED USE OF THE PUBLIC ACCESS CABLE CHANNEL DURING DEDICATED TIME ALLOCATIONS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME.

WHEREAS, The City of Modesto agrees to grant Quality Video specific time allocations to cablecast a daily program entitled “Central Valley Reports” on the AccessModesto Community Television Public Access Channel, and

WHEREAS, the time slots allocated for “Central Valley Reports” are on Monday through Friday from 7:00 to 7:30 a.m., 12:00 to 12:30 p.m., 6:00 to 6:30 p.m., 7:00 to 7:30 p.m., 10:00 to 10:30 p.m. and 11:00 to 11:30 p.m., and

WHEREAS, the City of Modesto through AccessModesto Community Television reserves the right to pre-empt the 7:00 to 7:30 p.m. program airtime to accommodate other one-hour programming requested 24 hours in advance, and

WHEREAS, Quality Video agrees to provide such program on a format that meets the technical playback requirements of AccessModesto Community Television as set forth in “Attachment A,” which is attached to this document, and made a part hereof, and

WHEREAS, the City of Modesto desires to approve this agreement for a one (1) year period, and the agreement shall be renewable thereafter at the discretion of the Modesto City Council, and

WHEREAS, Quality Video agrees to provide such program within a timely schedule that meets the technical playback requirements of AccessModesto Community Television, and

WHEREAS, Quality Video shall assume all liability related to all content submitted as part of the Central Valley Reports programs, and shall indemnify and hold harmless the City, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney’s fees, arising out of, or resulting from programming written and/or produced by Quality Video, and
WHEREAS, Quality Video shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement and shall furnish to City a warranty of such right to use at the request of City, and

WHEREAS, Quality Video has not authority or responsibility to exercise any right or power vested in the City, and

WHEREAS, Quality Video, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-year agreement with QAUALITY VIDEO for granted use of the public access channel during dedicated time allocations.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002, by Councilmember Keating, 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, Frohman, Jackman, Keating O’Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: 
JEAN ZAHN, City Clerk

APPROVED AS TO FORM:

By: 
MICHAEL D. MILICH, City Attorney
Operating Policies & Procedures
1. INTRODUCTION

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

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

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

A. PEG

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

B. Public Access

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

C. Education & Government Access

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

D. Contact Information

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

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

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

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

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

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

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

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

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

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

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

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

Regular Hours of Operation

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

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

1. Application Forms

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

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

2. Tape Duplication

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

3. Dubbing Charges

If producers wish to retain their edit master, they may request that one SVHS tape be dubbed in the Master Control Room to submit for cablecasting at no charge. Producers may also request one VHS tape be dubbed of their public access program in the Master Control Room at no charge. Producers must provide tape stock. Staff will duplicate tapes based on the availability of the equipment. Dubs for cablecasting have
priority over VHS dubs. Additional dubs will be copied by staff for a fee of $20 per tape including the cost of the tape stock.

III. SERVICES PROVIDED

A. Video Bulletin Board

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

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

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

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

A. Program Content Policy

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

1. Obscene or indecent matter as defined by the First Amendment to the U.S. Constitution and any applicable case law in the 1992 FCC guidelines.

2. Materials that contain other speech not protected by the Constitution: i.e., speech, which directly results in violence, “fighting words,” and incitement to riot.

3. The direct or indirect presentation of lottery or other information as prohibited by State Law.

4. Political endorsements outside of politically sanctioned debates and/or political advertising material.

5. Advertising material that promotes the sale of commercial products or services or motivates a viewer to contact guests or businesses for additional information. For example: A program with a guest from a business or organization cannot contain a slate that states “For more information call or contact...” Also, no phone number of a commercial business can be provided to the viewer.
6. The telephone number of certified non-profit organizations may be included as a service to the public. A non-profit may be required to provide documentation of its non-profit status.

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

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

B. Copyright and other Clearances

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

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

C. Minors Submitting Programs

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

D. Acknowledgements and Disclaimers

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

E. Viewer’s Discretion

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

F. Ownership

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

G. Distribution Rights

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

H. Underwriting and Sponsorship

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

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

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

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

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

A credit **MAY NOT** contain

- A video or photograph of a product
- A description of services
- A slogan – A slogan is defined by AccessModesto Cable TV as a copyrighted catch phrase associated with a company that is used for marketing purposes
- Phone number of a commercial venture or person
- A promotion of any form for the purchase or use of alcoholic or tobacco products

I. Non-commercial

Companies can sponsor shows:

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

Companies cannot sponsor shows:

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

A. Program Schedule

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

B. Producer's Promotion

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

C. Cable Guide

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

AccessModesto Cable TV's scheduling policies are designed to:

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

A. General Scheduling

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

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

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

B. Review

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

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

D. New Users and Time Dated Programs

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

E. Repeats

AccessModesto Cable TV reserve the right to repeat the same show within each programming block period.

F. Sensitive Programs

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

G. Program Submission

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

H. Re-submittal of regular programs and series programs

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

I. Failure to Submit Tape

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

J. Cancellation and Rescheduling

Staff reserves the right to pre-empt the regular schedule as necessary to accommodate date sensitive programs, technical difficulties, or emergency announcements or programming. Staff shall make every effort to reschedule pre-empted programs at the earliest available time slot.
K. Program Length

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

L. Exceeding Time Slot

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

VII. Technical Issues

A. Tape Formats

Acceptable tape formats for cablecasting include DVD, Mini-DV, and DV Cam, SVHS, VHS, 3 / 4" Umatic.

B. Technical Standards

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

C. Technical Information

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

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

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

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

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

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

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

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

a. Presenter's name, local address, and phone number
b. Program Title
c. Exact length of programs (minutes, seconds, and frames timed from the first frame of the beginning title page to the last frame the end title page)
d. Date (month and year) you are submitting the program
V. INFRACTIONS AND APPEALS PROCESS

A. Violations

Violations of AccessModesto Cable TV's programming policies and rules, or breaches of the Statement of Compliance may subject the offender to immediate forfeiture of the privilege of using the channel, facilities, and services. The Local Cable Citizen Advisory Committee, according to the severity and frequency of the infractions, will determine the duration of the forfeiture. Violations of AccessModesto Cable TV's Operating Policies and Procedures will be documented in writing in the user's file. Details of commercial and content violations can be found in the Rules and Regulations document, which is provided by AccessModesto Cable TV.

B. Appeals Process

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

1. User first meets with the AccessModesto Cable TV Manager to discuss his/her concern.
2. If the user feels his/her concern has not been resolved, the user must present a written report to the Local Cable Citizen Advisory Committee, which will review and make recommendations to the Modesto City Council.
3. The Modesto City Council may request a public hearing with the user, or may direct the Communications & Marketing Manager to respond to the report.
A RESOLUTION APPROVING THE CONCEPT OF ESTABLISHING A NON-PROFIT ORGANIZATION TO PERFORM ACCESSMODESTO FUNCTIONS.

WHEREAS, the City Council has directed staff to consider organizational options for AccessModesto, and

WHEREAS, creation of an independent, non-profit organization has been identified as the most viable option, and

WHEREAS, AccessModesto is currently under the direction of the City Manager’s Office, and

WHEREAS, the Local Cable Programming Committee will provide Council with a thorough analysis of issues, challenges, logistics, and strategic steps involved in the formation of a non-profit organization, and

WHEREAS, staff support from the City Attorney’s Office and other appropriate departments will provide legal and other assistance as needed by the Local Cable Programming Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the concept of establishing a non-profit organization to perform current and future functions of AccessModesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Frohman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Zahr, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-594

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(556) (GRANITE BAY HOLDINGS)

WHEREAS, a verified application for an amendment to Section 10-3-9 of the Zoning Map was filed by Granite Bay Holdings on August 9, 2002, to reclassify from Medium-Density Residential Zone, R-2, to Planned Development Zone, P-D(556) to allow for the development of a 24-unit townhouse project, property located on the southeast corner of Carson Oak Drive and Bridgewood Way, described as follows:

R-2 to P-D(556)

All that certain real property situated in a portion of the Northeast quarter of Section 10, Township 3 South, Range 9 East, Mount Diablo Base and Meridian and lying within the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

“Parcel 3” as shown and designated on that certain Parcel Map filed in the Office of the County Recorder of Stanislaus County, California, on September 24, 1979 in book 29 of Parcel Maps, at page 100;

Including the Southerly one-half of Bridgewood Way and the Easterly one-half of Carson Oak Drive.

WHEREAS, after a public hearing held on October 21, 2002, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2002-45, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed townhouses are at a residential density permitted within the existing zoning.

2. Residential uses are compatible with the adjacent land uses along Carson Oak Drive and Bridgewood Way.
WHEREAS, said matter was set for a public hearing of the City Council to be held on November 26, 2002, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Granite Bay Holdings for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2002-45 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3274-C.S. on the 26th day of November, 2002, reclassifying the above-described property from Medium-Density Residential Zone, R-2, to Planned Development Zone, P-D(556).

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(556), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Two-Story Townhouse Units” as amended in red, stamped approved by the Planning Commission on October 21, 2002.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Director for the front-yard area, which is demarcated on the site plan as the area between the street right-of-ways and the dashed line on the street-facing side of each dwelling unit. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Prior to the issuance of a building permit for any structure, a final subdivision map shall be recorded.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
5. Prior to the issuance of a building permit, dedication consistent with Standard Specifications shall be made of all interior street right of way and all necessary easements, as shown on the tentative map.

6. Prior to issuance of a building permit, plans showing the following improvements shall be prepared by a Registered Civil Engineer and approved by the Engineering and Transportation Director. Improvements shall be constructed in accordance with the approved plans.
   a. Full street improvements for the proposed cul-de-sac in accordance with Standard Specifications.
   b. Reconstruct the existing curb ramp at the corner of Bridgewood Way and Carson Oak Drive in accordance with City Standards.

7. Prior to occupancy of any building, irrigation, electrical, gas and domestic water lines shall be removed, relocated, or protected as required by the Engineering and Transportation Director and/or the utility companies, and easements for utility lines to remain shall be dedicated.

8. All existing street and property monuments within or abutting this project site shall be preserved. If, during construction of on-site or off-site improvements, monuments are damaged or destroyed, the applicant/developer shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per City Standards and file the necessary information with the County Recorder’s Office as required by AB1414.

9. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

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

11. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner's Association which shall guarantee continued maintenance of the front-yard area, which is demarcated on the site plan as the area between the street right-of-ways and the dashed line on the street-facing side of each dwelling unit. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.
12. All utilities shall be underground and cable television service shall be stubbed into all units.

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

14. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

15. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

16. Prior to issuance of a Certificate of Occupancy, the applicant shall enroll and participate in the City’s Crime-Free Multi-Family Housing Program as administered by the Modesto Police Department.

17. Prior to issuance of a Certificate of Occupancy, an eight-foot-high decorative masonry wall shall be installed on the east side of the property.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(556):

The entire construction program be accomplished in one phase, construction to begin on or before October 21, 2004, and completion to be not later than October 21, 2005.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict
adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(556), becomes effective.

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

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

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: Jean Zahr, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Michael D. Milich, City Attorney

APPROVED AS TO LEGAL DESCRIPTION:

By: Community & Economic Development Department Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2002-595

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): AMENDMENT TO SECTION 10-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(556), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF CARSON OAK DRIVE AND BRIDGewood WAY (GRANITE BAY HOLDINGS)

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

WHEREAS, Granite Bay Holdings has proposed that the zoning designation for the property on the southeast corner of Carson Oak Drive and Bridgewood Way be amended to rezone from Medium-Density Residential, R-2, to Planned Development Zone, P-D(556), in the City of Modesto, ("the project") to allow for a 24-unit townhouse subdivision, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2002-53, ("Initial Study") reviewed the proposed amendment to Zoning Map and rezone to P-D(556) project to determine
whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR, ("Master EIR") which concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines the City caused to be published a notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 26, 2002, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map and rezone from P-D(556) project, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

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

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.
3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. There are no substantial changes proposed in the project which will require revisions to the Master EIR.

5. 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 Master EIR.

6. No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.

7. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

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

9. The Initial Study, Environmental Assessment No. EA/C&ED 2002-53 provides the substantial evidence to support the above findings.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 2002, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Jackman, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Frohman

ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

Initial Study

EA/C&ED 2002-53
City of Modesto
Initial Study

Granite Bay's "Modesto Villas" P-D
EA/CDD 2002-53
September 24, 2002

I. PURPOSE

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

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

II. PROJECT DESCRIPTION

A. Project title:
Modesto Villas Planned Development Zone Rezoning

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

C. Contact person and phone number:
Josh Bridegroom, Community Development Department, (209) 571-5540

D. Project Location:
Southeast Corner of Carson Oak Drive and Bridgewood Way

E. Project Sponsor:
Granite Bay Holdings, 4230 Douglas Blvd. Suite 100, Granite Bay, California

F. General Plan Designation:
Mixed Use

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

H. Description of Proposed Project:
This is an application to rezone 2.19 acres located on the southeast corner of Carson Oak Drive and Bridgewood Way from R-2 (Medium Density Residential) to P-D (Planned Development) to allow for the development of a twenty-four-unit townhouse project. The proposed project would be a total of twelve buildings, two-units each, ranging in size from approximately 1,400 to 1,800 square feet per unit. A cul-de-sac accessing Carson Oak Drive is also proposed in conjunction with this project.
I. Surrounding land uses:
The project is surrounded by single family residential to the north and west, the northeast Modesto Police Department Substation to the east and a mini-storage facility to the south.

J. Other public agencies whose approval is required:
None

III. ANALYSIS OF CONFORMANCE WITH THE MASTER EIR

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

A. Traffic and Circulation

The General Plan designates the project site as mixed use. The project is consistent with this designation in land use and intensity and will therefore not generate traffic greater than projected by the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are still valid.

B. Degradation of Air Quality

The air quality impacts for this abandonment are directly related to the traffic impacts. Since traffic impacts are no greater than those anticipated in the Master EIR, this development will not cause additional impacts to air quality beyond those described in the Degradation of Air Quality section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are therefore still valid.

C. Generation of Noise

The General Plan MEIR assumed that there would be further development and thus, noise generation within the Baseline Developed Area. Therefore, the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are still valid.

D. Loss of Productive Agricultural Land

This area is located in an urbanized portion of Modesto, and there are no agricultural lands affected by this project. The Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages IV-4-1 through IV-4-16) are still valid.

E. Increased Demand for Water Supplies

The General Plan MEIR assumed that there would be further development and thus, increased demand for Water Supplies within the Baseline Developed Area. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are therefore still valid.
F. **Increased Demand for Sanitary Sewer Services**

The General Plan MEIR assumed that there would be further development and thus, increased demand for Sanitary Sewer Services within the Baseline Developed Area. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are still valid.

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

The project is located in a built-up urban area and is not located in a Potential Biological Resource Study Area, as presented in Figure 7-1 of the MEIR. Therefore, the project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. Therefore, the Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are still valid.

H. **Disturbance of Archaeological and Historic Sites**

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

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

The mitigation measures in the Master EIR will not reduce the impacts of increased runoff within the Baseline Developed Area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Drainage, Flooding, and Water Quality (pages IV-9-1 through IV-9-23) are still valid.

J. **Increased Demand for Storm Drainage**

The proposed project will be required to provide for on-site treatment of storm drainage in accordance with City standards. The mitigation measures contained in the Master EIR will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. In adopting the Master EIR, the City Council adopted a finding of overriding findings for this impact. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages IV-10-1 through IV-10-8) are still valid.

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

The MEIR concluded that demand for parks and open space would be mitigated through the payment of Capital Facilities Fees (CFF) for new development, which would be used for the development of new parks. Since the City's CFF program applies to this project,
the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages IV-11-1 through IV-11-11) are still valid.

L. Increased Demand for Schools

The effected school districts have been notified of the proposed development and have no objection to the proposal. The approval will be conditioned to ensure that the appropriate school impact fees will be collected from this development. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Schools (pages IV-12-1 through IV-12-11) are still valid.

M. Increased Demand for Police Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for police services within the Baseline Developed Area. Beyond this, the Modesto Police Department has not indicated any problems with the proposed expansion. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages IV-13-1 through IV-13-8) are still valid.

N. Increased Demand for Fire Services

The General Plan MEIR assumed that there would be further development and thus, increased demand for fire services within the Baseline Developed Area. The proposed project is consistent with the General Plan in terms of land use and intensity and will be required to meet all relevant fire codes. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages IV-14-1 through IV-14-9) are still valid.

O. Generation of Solid Waste

The General Plan MEIR assumed that there would be further development and thus, increased generation of solid waste within the Baseline Developed Area. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10) are still valid.

P. Generation of Hazardous Materials

The General Plan MEIR assumed that there would be further development and thus, increased generation of hazardous materials within the Baseline Developed Area. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-14) are still valid.

Q. Landslides and Seismic Activity

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

The proposed townhouse development will generate some additional demand for energy. However, the General Plan MEIR assumed that there would be further development and thus, increased demand for energy within the Baseline Developed Area. Therefore, the Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are still valid.

IV. CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed project is within the scope of the General Plan Master EIR (SCH No. 92052017).

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

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

D. There are not specific features unique to this project that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply city wide, including this project as appropriate.

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

Signature:

Josh Bridegroom, Assistant Planner