MODESTO CITY COUNCIL
RESOLUTION NO. 96-637

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): AMENDING SECTION 28-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, TO PLANNED DEVELOPMENT ZONE, P-D(490), AS AN ADDITION TO PLANNED DEVELOPMENT ZONE, P-D(490), PROPERTY LOCATED ON THE NORTHEAST CORNER OF SCENIC DRIVE AND BODEM STREET. (ACACIA MEMORIAL PARK)

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, Acacia Memorial Park has proposed that the zoning designation for the property located the northeast corner of Scenic Drive and Bodem Street be amended to rezone from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(490), as an addition to Planned Development Zone, P-D(49), property located on the northeast corner of Scenic Drive and Bodem Street, in the City of Modesto ("the project"), and

WHEREAS, on September 27, 1996, the City’s Community Development Department by Environmental Assessment 96-122 has reviewed the proposed project relating to the project, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures or alternatives may be required,
and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, on October 21, 1996, the Modesto Planning Commission, after a duly noticed public hearing, recommended to the City Council that said project be approved,

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 project on September 27, 1996, 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 report.

2. The project will have no new additional significant effects on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

3. 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 specific features which are unique to the proposed project that require project specific mitigation measures. All the certified mitigation measures identified in
I. **PURPOSE**

The Master Environmental Impact Report for the Modesto Urban Area General Plan allows for limited environmental review of the P-D Zone change. The Final Master EIR (SCH #92052017) was certified by the Modesto City Council on August 15, 1995.

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

II. **PROJECT DESCRIPTION**

A. Project title: Acacia Memorial Park

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

C. Contact person and phone number:
   Dennis Wilson - Mid-Valley Engineering, Inc. 526-4214

D. Project Location:
   The northeast corner of Scenic Drive and Bodem Street

E. Project sponsor: Acacia Memorial Park

F. General Plan Designation: RPD (Redevelopment Planning District)

G. Current Zoning: C-1

H. Description of Proposed Project: This project is rezone from C-1 to P-D Planned Development, for expansion of the adjacent cemetery.

I. Surrounding land uses: The eastern portion of the project is Bodem Street and the County Senior Citizen Center. To the west and north are the adjacent cemetery. On the south side is Scenic Drive.

J. Other public agencies whose approval is required:

   EXHIBIT A
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 project will provide up to 500 additional cemetery plots for the cemetery. The development of this parcel in itself will not present impacts that were not analyzed in the MEIR. All of the roads will be improved to City standard at this location. This is consistent with the Traffic and Circulation needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are, still valid.

B. Degradation of Air Quality
This project will provide infill development within the City of Modesto. It will not have 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, still valid.

C. Generation of Noise
This project is adjacent to and surrounded by urban development. Although the project will add additional traffic to the neighborhood, it will not create additional significant effects beyond those identified in the impact analysis. The wall will adequately muffle any additional noise impacts. The Existing Conditions, Impacts Analysis, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are, therefore still valid.

D. Loss of Productive Agricultural Land
The project is located on vacant land. Redevelopment. Thus, it will not contribute to the loss of productive agricultural land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. 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, therefore still valid.

E. Increased Demand for Water Supplies
This project which will provide for additional cemetery development, which will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for
Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11 are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services
This project will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.

G. Loss of Sensitive Wildlife and Plant Habitat
This project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are, therefore, still valid.

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

I. Drainage, Flooding and Water Quality
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

J. Increased Demand for Storm Drainage
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

K. Increased Demand for Parks and Open Space
This project will not have an effect upon the parks or open space needs in the area.
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, therefore still valid.

L. Increased Demand for Schools
This project will not generate any additional demand upon the local school districts. In addition, the MEIR has determined that the mitigation measures for this impact adequately mitigate the impacts to a "less than significant level." Thus 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, therefore still valid.

M. Increased Demand for Police Services
This proposal has a less than significant impact upon the need for additional police services to this area. 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, therefore still valid.

N. Increased Demand for Fire Services
This subdivision proposal has a less than significant impact upon the need for additional fire services to this area. Fire Station Number 1 is less than one mile away. 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, therefore still valid.

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

P. Generation of Hazardous Materials
This proposal will result in no additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-14) are, therefore 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
This proposal will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are, therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed zone change application is within the scope of the General Plan covered by a Master Environmental Impact Report (SCH #92052017).

B. The Project will have no new additional significant effect on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

C. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (Section 21157.1).

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

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

Signature: [Signature] Date: 9-27-78
the Master EIR will apply city-wide.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice pursuant to either Section 21108 or 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, 1996, by Councilmember Dobbs, 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: Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-638

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR
PLANNED DEVELOPMENT ZONE, P-D(490), AS AN
ADDITION TO PLANNED DEVELOPMENT, P-D(490).
(ACACIA MEMORIAL PARK)

WHEREAS, a verified application for an amendment to
Section 28-3-9 of the Zoning Map was filed by Acacia Memorial
Park on August 28, 1996, to rezone from Neighborhood Commercial
Zone, C-1, to Planned Development Zone, P-D(490), as an addition
to Planned Development Zone, P-D(490), to allow a cemetery
expansion, property located on the northeast corner of Scenic
Drive and Bodem Street, described as follows:

C-1 to P-D(490) as an Addition to P-D(490)

All that certain real property situate in a portion of
the southeast quarter of the northwest quarter of
Section 28, Township 3 South, Range 9 East, Mount
Diablo Base and Meridian, in the County of Stanislaus,
State of California, described as follows:

Starting at the southeast corner of the northeast
quarter of the northwest quarter of said Section 28, as
shown on the map of Capital Heights Addition filed in
the office of the Recorder of Stanislaus County, on May
29, 1912, in Volume 6 of Maps, Page 41; thence
southerly 690 feet, more or less, to the southeast
corner of Block 595, being also on the northerly line
of 80 foot Scenic Drive, also being the Point of
Beginning; thence southwesterly 218 feet, more or less,
to the southwest corner of said Block 595; thence
northerly 196 feet, more or less, to a point on the
east line of Bodem Street 560 feet south of the north
line of said Block 595; thence on a line parallel to
the north line of said Block 595; easterly 197 feet,
more or less, to a point of the east line of said Block
595; thence southerly 100 feet, more or less, to the
Point of Beginning.

Including also the north half of 80 foot Scenic Drive,
and the east half of 60 foot Bodem Street, all
immediately adjacent to the above-described property.
WHEREAS, after a public hearing on October 21, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 96-49, that rezoning of the property as requested is required by public necessity, convenience and general welfare for the following reasons:

1. That the proposed P-D Zone is in accordance with community objectives as set forth in the General Plan, which allows for expansion of the adjacent cemetery.

2. The proposed rezone from C-1 to P-D is within the scope of the General Plan as covered by MEIR (SCH#92052017).

WHEREAS, after a public hearing held on November 26, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council found and determined that the application of Acacia Memorial Park for an amendment to Section 28-3-9 to rezone from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(490), as an addition to Planned Development Zone, P-D(490) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 96-49 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3011-C.S. on the 26th day of November, 1996, reclassifying the above-described property from Neighborhood Commercial Zone, C-1, to Planned Development Zone, P-D(490), as an addition to Planned Development Zone, P-D(490).
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(490), as an addition to Planned Development Zone, P-D(490), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plans titled "Acacia Memorial Park" as amended in red, stamped approved by the City Council on November 26, 1996.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks and Recreation Department Director. The landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Fences and walls shall be constructed prior to occupancy and shall be constructed as per the site plan and elevations in accordance with this application.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris. This will include all the area immediately outside the proposed wall and fence.

5. Street dedication consistent with Standard Specifications and the proposed site plan shall be made prior to the issuance of a building permit or at any time requested by the Public Works and Transportation Director to alleviate a health, safety, or traffic problem in the area.

6. The existing approach into the property from Bodem Street shall be closed off and the existing driveway onto Scenic Drive shall be widened with a drop-curb approach design.

7. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the Public Works and Transportation Director.
8. The applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's Office on a form available in the Community Development Department.

9. The developer shall indemnify, defend and hold harmless the City of Modesto, its agents, officers, and employees from any claim, action or proceeding against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto of a subdivision approval, which action is brought within the time period provided for in Code of Civil Procedure Section 1094.6 and Public Resource Code 21167 of the State of California. 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.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(490), as an addition to Planned Development Zone, P-D(490):

The entire construction program be accomplished in one phase, construction to begin on or before October 21, 1998, and completion to be not later than October 21, 1999.

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 X of the Modesto Municipal Code relating to
Planned Development Zone 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(490), as an addition to Planned Development Zone, P-D(490), 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, 1996, by Councilmember Dobbs, 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: Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: Jean Adams, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

APPROVED AS TO DESCRIPTION:

By Community Development Department Services
A RESOLUTION APPROVING AN AMENDMENT TO THE GENERAL PLAN EXEMPTING THE NORTH BEYER PARK SPECIFIC PLAN FROM THE GENERAL PLAN POLICY REQUIRING THE PREPARATION OF A FOCUSED EIR FOR COMPREHENSIVE PLANS AND REVISING THE COMPREHENSIVE PLANNING DISTRICT SUMMARY MAP AND TEXT, THE NORTH BEYER COMPREHENSIVE PLANNING DISTRICT MAP AND TEXT, AND THE ADOPTED LAND USE DIAGRAM, TO REFLECT THE NONRESIDENTIAL USES PROPOSED IN THE NORTH BEYER PARK SPECIFIC PLAN, AND CERTIFYING COPIES THEREOF TO THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS.

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

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

WHEREAS, said General Plan has been amended by Modesto City Council Resolutions No. 95-584, No. 96-20, and 96-338, copies of which are on file in the office of the City Clerk, and

WHEREAS, the City of Modesto Urban Area General Plan, adopted August 15, 1995, contains in Chapter III, policies for the preparation of Comprehensive Plans, pages III-11 through III-13, and

WHEREAS, Comprehensive Policy III-D-1-g requires the preparation of a Focused EIR for each Comprehensive Plan, and
WHEREAS, the North Beyer Park Specific Plan is such a Comprehensive Plan, and

WHEREAS, an Initial Study, based on Appendix I of the California Environmental quality Act (CEQA) Guidelines, provided review of the project pursuant to the City of Modesto's General Plan Master EIR (SCH #92052017), and

WHEREAS, the following statement: "The North Beyer Specific Plan, because a previous EIR was prepared (SCH #91102032), is exempt from this requirement" is proposed to be added to Policy g, page III-12 of the General Plan text, and

WHEREAS, the Land Use Summary, Land Use Diagram, Figure 2 of the Draft North Beyer Specific Plan contains approximately 30 acres of proposed nonresidential uses in the form of Mixed-Use areas designated as "MU", and

WHEREAS, the General Plan, Comprehensive Planning District Summary map (Exhibit III-1) and text (Page III-15), do not reflect the proposed nonresidential uses for the North Beyer Comprehensive Planning District, and

WHEREAS, the Community Development Policies in the General Plan, specifically, the North Beyer Comprehensive Planning District text, pages III-62 and 63, do not reflect the proposed nonresidential uses, but allows only 1200 residential units, and

WHEREAS, the North Beyer Comprehensive Planning District map Exhibit III-15 does not reflect the proposed
nonresidential uses, and

WHEREAS, the Adopted General Plan Land Use Diagram, Figure III-1, does not reflect the proposed North Beyer Comprehensive Planning District nonresidential uses, and

WHEREAS, City staff has proposed the following changes:

1. That "The North Beyer Specific Plan, because a previous EIR was prepared (SCH #91102032), is exempt from this requirement" is proposed to be added to Policy g, page III-12 of the General Plan text per attached Exhibit "A.

2. That the General Plan, Comprehensive Planning District Summary map (Exhibit III-1) and text (Page III-15), be amended to reflect the proposed nonresidential uses for the North Beyer Comprehensive Planning District per attached Exhibit "A.

3. That the North Beyer Comprehensive Planning District text, pages III-62 and 63 be amended to reflect the proposed nonresidential uses as described in attached Exhibit "A".

4. That the North Beyer Comprehensive Planning District map, Exhibit III-15, be amended to reflect the proposed nonresidential uses as shown in attached Exhibit "A".

5. That the Adopted General Plan Land Use Diagram, Figure III-1, be amended to reflect the proposed North Beyer Comprehensive Planning District nonresidential uses as indicated in attached Exhibit "A", and

WHEREAS, pursuant to provisions of the Government Code
Section 65402 of the State of California, the Modesto Planning Commission is charged with the responsibility of recommending to the City Council amendments to the Modesto Urban Area General Plan regarding the physical development of land, and

WHEREAS, on November 4, 1996, the Planning Commission held a duly noticed public hearing in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, relating to a proposed amendment to the General Plan to exempt the North Beyer Park Specific Plan from the General Plan Policy requiring the preparation of a Focused EIR for Comprehensive Plans and amending the corresponding Master EIR section, and relating to a proposed amendment to a proposed amendment to the General Plan to revise the Comprehensive Planning District Summary Map and Text, and the Adopted Land Use Diagram, to reflect the nonresidential uses proposed in the North Beyer Park Specific Plan, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 96-52, recommending to the City Council an amendment to the General Plan to revise the Comprehensive Planning District Summary Map and Text, the North Beyer Comprehensive Planning District Map and Text, and the Adopted Land Use Diagram, to reflect the nonresidential uses proposed in the North Beyer Park Specific Plan, and

WHEREAS, the Planning Commission adopted Resolution No. 96-53, recommending to the City Council an amendment to the General Plan to exempt the North Beyer Park Specific Plan from
the General Plan Policy requiring the preparation of a Focused EIR for Comprehensive Plans and recommended an amendment to the corresponding Master EIR section, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 4:00 p.m. on November 26, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. That it has reviewed and considered the Draft Mitigated Negative Declaration (SCH #96102053).

2. That the Mitigated Negative Declaration is complete and adequate, and that it has been prepared and completed in accordance with the provisions of CEQA.

BE IT FURTHER RESOLVED that the Council hereby determines that the General Plan and Master EIR should be amended in the public interest to exempt the proposed North Beyer Specific Plan from the preparation of a Focused Environmental Impact Report for the following reasons:

1. The California Environmental Quality Act, Sections 15063 b(1)(B) and (C) and 15152, encourages the use of analyses in previous EIR's to streamline environmental review.

2. The projects impacts were adequately analyzed by a Mitigated Negative Declaration pursuant to the City's Master EIR which incorporated previous analysis of the Stanislaus County LAFCO Staged EIR and included a project-specific traffic study.
BE IT FURTHER RESOLVED that the proposed amendment to the Modesto Urban Area General Plan should be approved to revise the Comprehensive Planning District Summary Map and Text, the North Beyer Comprehensive Planning District Map and Text, and the Adopted Land Use Diagram, to reflect the nonresidential uses proposed in the North Beyer Park Specific Plan, for the orderly development of the City of Modesto, and said amendment is required for the public health, safety and welfare of the citizens of Modesto, for the following reason:

The added nonresidential uses are consistent with the General Plan policy for development of an undeveloped portion of an existing neighborhood such as North Beyer, namely the Neighborhood Plan Prototype.

BE IT FURTHER RESOLVED by the Council that the amendment to the General Plan to revise the text and map of the Comprehensive Planning District Summary North Beyer Comprehensive Planning District, Exhibit III-15, and Adopted Land Use Diagram, Figure III-1, to permit the nonresidential uses proposed by the North Beyer Park Specific Plans and that pages III-14 and 15, III-62, 63 and 64, and Figure III-1 of the General Plan are hereby approved as set forth on the attached Exhibit "A".

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to certify copies of this resolution and said Amendments to the General Plan to the Board of Supervisors of the County of Stanislaus.

The foregoing resolution was introduced at a regular
meeting of the Council of the City of Modesto held on the 26th
day of November, 1996, by Councilmember Friedman, who moved its
adoption, which motion being duly seconded by Councilmember
Fisher, was upon roll call carried and the resolution adopted by
the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman,
McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich
MICHAEL D. MILICH, City Attorney
EXHIBIT "A"
f. More than one Comprehensive Plan may be processed within a given Comprehensive Planning District (CPD), as long as the remaining area within the CPD can still comply with the General Plan policies presented in this Chapter. Conversely, a Comprehensive Plan can be used to implement more than one Comprehensive Planning District.

g. A "Focused Environmental Impact Report" as defined by Section 21158 of the Public Resources Code shall be required for each Comprehensive Plan to implement the policies of each Comprehensive Planning District. Each Focused EIR shall concentrate on those resources and issues presented in the Master Environmental Impact Report prepared and certified for the General Plan.

Note: The North Bever Specific Plan, because a previous EIR was prepared (SCH #91102002), is exempt from this requirement.

h. Upon the review of each Comprehensive Plan, the Master EIR may streamline further CEQA review of that Comprehensive Plan, if the City as Lead Agency can make the following finding:

"No substantial changes have occurred with respect to the circumstances under which the master environmental impact report was certified or that no new information, which was not known and could not have been known at the time that the master environmental impact report was certified as complete, has become available." (Section 21157.6(a) of Public Resources Code.)

i. All policy requirements presented in the individual Comprehensive Planning District narratives (Exhibits III-2 through III-26), shall be applied wherever indicated in each individual District's narrative.

j. The Comprehensive Plan for each Comprehensive Planning District shall address the policies for the relevant Growth Strategy Designation (Baseline Developed Area or Planned Urbanizing Area) presented in Chapters II, III, IV, V, VI, and VII.

k. Each Comprehensive Planning District shall address the need to provide sanitary sewer service, using the Sanitary Sewer Diagram presented in Chapter V.

l. Once a Comprehensive Plan for a Comprehensive Planning District is adopted consistent with all of these Policies, all subsequent discretionary actions found consistent with the Comprehensive Plan are hereby deemed to be consistent with the Modesto Urban Area General Plan.
Exhibit III-1

COMPREHENSIVE PLANNING DISTRICT SUMMARY
## Exhibit III-1

### COMPREHENSIVE PLANNING DISTRICT SUMMARY

<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Comprehensive Planning District (CPD)</th>
<th>Land Use Designations Within the CPD</th>
<th>Acreage</th>
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<td>III-2</td>
<td>Beckwith/Dakota</td>
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Exhibit III-15

NORTH BEYER

COMPREHENSIVE PLANNING DISTRICT

1. Overview

This 160-acre Comprehensive Planning District is essentially an extension of the existing residential development [Beyer Neighborhood] south of Mable Avenue.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

- 160 acres designated "Residential" and 50 acres designated "Mixed Use"

b. Distribution of Land Uses Within the CPD

None, as there is only one land use proposed. The Mixed Use areas are located: 1) along Coffee Road between Pelandale Expressway and Mable Avenue, 2) the southwest corner of the Oakdale Road/Pelandale Expressway intersection.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

(1) Overall Land Use Policies (Section III-C(1))
(2) "Neighborhood Plan Prototype" Policies (Section III-C(2))

b. Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:
(1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 1,200 dwelling units.

(2) Neighborhood Shopping Center(s) developed within the Mixed Use areas shall be consistent with the City's Neighborhood Shopping Center Policy.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

a. This Comprehensive Planning District will be served by a subtrunk in Coffee Road that ties into the existing sanitary sewer system.

6. Focused EIR CEQA Review:

The Focused Environmental Impact Report for this General Plan Policy III (D)(5) specifically exempts the North Beyer CPD from the requirement to prepare a Focused EIR CEQA review for the Comprehensive Plan for the North Beyer Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

a. A total of 1,200 dwelling units was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.
Proposed Amendment to General Plan:

Adopted Land Use Diagram-North Beyer C.P.D.
MODESTO CITY COUNCIL
RESOLUTION NO. 96-640

A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION FOR THE NORTH BEYER PARK SPECIFIC PLAN AND GENERAL PLAN AMENDMENT.

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (State Clearing House #92052017) for the Modesto Urban Area General Plan, and

WHEREAS, an Initial Study, based on Appendix I of the California Environmental Quality Act (CEQA) Guidelines, provided review of the project pursuant to the City of Modesto's General Plan Master EIR (SCH #92052017), and

WHEREAS, the project is adoption of a Specific Plan for the development of the North Beyer Comprehensive Planning District (approximately 160 acres). The project also includes the approval of a General Plan amendment to: 1) allow the proposed commercial uses, and 2) exempt this project from the requirement to prepare a Focused EIR under the City's Master EIR, and

WHEREAS, the Initial Study (SCH #96102053) reviewed the project pursuant to CEQA Section 21157.5, which allows the preparation of a Mitigated Negative Declaration for a proposed subsequent project, and

WHEREAS, the Stanislaus County Local Agency Formation Commission (LAFCO) in connection with the annexation of the project area to the City, prepared a CEQA analysis in 1992 in the
form of a Staged EIR (CEQA Section 15167) that analyzed a substantially similar project in the Coffee/Claratina Reorganization - North Beyer Reorganization EIR, (SCH #91102032), and

WHEREAS, as encouraged by the CEQA Guidelines, the previous analysis of the Stanislaus County LAFCO EIR was incorporated by reference into the Initial Study (CEQA Section 15150), and

WHEREAS, the Initial Study, which included a Traffic Impact Analysis by Anderson Transportation Engineers, analyzed potentially new significant effects for Traffic and Circulation that were not analyzed in the Master EIR; and

WHEREAS, Mitigation to reduce project-specific impacts to less than significant was arrived at by City staff, including signalization and widening of project area intersections, and dedication and ultimate improvement of Pelandale Expressway to six through lanes, and

WHEREAS, the above-referenced Mitigation was incorporated into the project prior to Public Review, and

WHEREAS, the Initial Study and proposed Draft Mitigated Negative Declaration were released for Public Review from October 11, 1996, through November 12, 1996, and
WHEREAS, the Planning Commission is required to make a recommendation on this project to the City Council, and the Planning Commission may review and consider the Mitigated Negative Declaration in draft or final form, CEQA Guidelines Section 15025(c), and

WHEREAS, on November 4, 1996, the Modesto Planning Commission, after a duly noticed public hearing, adopted Resolution No. 96-54, recommending to the City Council approval of a mitigated negative declaration for the North Beyer Park Specific Plan and General Plan Amendment, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 4:00 p.m. on November 26, 1966, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Draft Initial Study and the Draft Mitigated Negative Declaration, hereby approves the Mitigated Negative Declaration, and makes the following findings:

1. That an Initial Study has identified no new potentially or additional significant effects on the environment that were not analyzed in the Master Environmental Impact Report.

2. That feasible mitigation measures were incorporated to revise the proposed subsequent project, before the Mitigated Negative Declaration and Initial Study were released for public review, in order to avoid the effects or mitigate the...
effects to a point where clearly no significant effect on the environment will occur.

3. That there is no substantial evidence in light of the whole record before the City that the project, as revised, may have a significant effect on the environment.

4. The Mitigated Negative Declaration reflects the independent judgement of the City as lead agency.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice pursuant to either Section 21108 or 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, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

12/10/96
MODESTO CITY COUNCIL
RESOLUTION NO. 96-641

A RESOLUTION ADOPTING THE NORTH BEYER PARK SPECIFIC PLAN.

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt Specific Plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on August 15, 1995, the City Council by Resolution No. 95-409 adopted the City of Modesto Urban Area General Plan which contains Community Development policies including the North Beyer Comprehensive Planning District which allows implementation through Specific Plans prepared pursuant to Government Code Section 65450, and

WHEREAS, in August 1996, the applicant, Florsheim Development, initiated a proposal for development of the North Beyer Comprehensive Planning District (160 acres) the principal components being; single-family residential, mixed-use/Neighborhood Shopping Center/Professional Offices, and a Middle School site, and

WHEREAS, the Public Review Documents dated October 1996 which contained the Draft Specific Plan, also included the Draft CEQA Review document in the form of a Draft Mitigated Negative Declaration (SCH # 96102053), were distributed for a 30-day public review from October 11, 1996, through November 12, 1996,
and

WHEREAS, the Public Review Documents dated October 1996, which contained the Draft Specific Plan, also included the Draft CEQA Review document in the form of a Draft Mitigated Negative Declaration (SCH# 96102053), which were distributed to the Planning Commission on October 15, 1996 prior to the public hearing, and

WHEREAS, staff prepared and presented a revised Draft Specific Plan dated November 4, 1996, which contains recommended revisions to make the Plan conform to City of Modesto policies and standards for development, and

WHEREAS, the Planning Commission reviewed and considered the Public Review Documents dated October 1996 and the November 4, 1996 Draft Specific Plan along with the staff report, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 4, 1996, to receive evidence both oral and documentary to consider making a recommendation to the City Council on the adoption of the Draft Specific Plan, and

WHEREAS, Proposed Revisions/Additions to the revised Draft Specific Plan dated November 4, 1996, (attached Exhibit "F"), were presented by staff to the Planning Commission for consideration, and

WHEREAS, by No. 96-55 adopted on November 4, 1996, the Planning Commission recommended to the City Council the adoption
of the North Beyer Park Specific Plan, and

WHEREAS, said matter was set for a public hearing of
the City Council to be held at 4:00 p.m. on November 26, 1996, in
the City Council Chambers, City Hall, 801 11th Street, Modesto,
California, at which date and time said duly noticed public
hearing of the Council was held and evidence both oral and
documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED that the Council of
the City of Modesto finds and determines as follows:

1. The City Council has reviewed and considered the
information contained in the Draft Mitigated
Negative Declaration (SCH # 96102053).

2. That the Mitigated Negative Declaration is
complete and adequate, that it has been prepared
and completed in accordance with the provisions of
CEQA.

3. That the revised Draft Specific Plan (consisting
of Exhibit "C" to the November 4, 1996, North
Beyer Park Draft Specific Plan) along with the
Proposed Revisions/Additions (consisting of
Exhibit "F") is consistent with the City of
Modesto Urban Area General Plan.

BE IT FURTHER RESOLVED that the Council hereby adopts the
North Beyer Park Specific Plan dated November 4, 1996, with the
incorporation of the Proposed Revisions/Additions, a copy of which is
attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED that this resolution shall become
effective 30 days from the date it was passed.

BE IT FURTHER RESOLVED that the City Clerk is hereby
authorized and directed to certify copies of this Resolution and said
Specific Plan to the Board of Supervisors of the County of Stanislaus.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
MICHAEL D. MILICH, City Attorney

12/10/96
EXHIBIT "A"

GENERAL PLAN AMENDMENT

FOCUSED EIR EXEMPTION

p. III-12, policy g.


Addendum to General Plan Master EIR,

p. IV-19-4, Section 19 (B)(2)(c)
f. More than one Comprehensive Plan may be processed within a given Comprehensive Planning District (CPD), as long as the remaining area within the CPD can still comply with the General Plan policies presented in this Chapter. Conversely, a Comprehensive Plan can be used to implement more than one Comprehensive Planning District.

g. A "Focused Environmental Impact Report" as defined by Section 21158 of the Public Resources Code shall be required for each Comprehensive Plan to implement the policies of each Comprehensive Planning District. Each Focused EIR shall concentrate on those resources and issues presented in the Master Environmental Impact Report prepared and certified for the General Plan.

Note: The North Beyer Specific Plan, because a previous EIR was prepared (SCH #91102032), is exempt from this requirement.

h. Upon the review of each Comprehensive Plan, the Master EIR may streamline further CEQA review of that Comprehensive Plan, if the City as Lead Agency can make the following finding:

"No substantial changes have occurred with respect to the circumstances under which the master environmental impact report was certified or that no new information, which was not known and could not have been known at the time that the master environmental impact report was certified as complete, has become available." (Section 21157.6(a) of Public Resources Code.)

i. All policy requirements presented in the individual Comprehensive Planning District narratives (Exhibits III-2 through III-26), shall be applied wherever indicated in each individual District's narrative.

j. The Comprehensive Plan for each Comprehensive Planning District shall address the policies for the relevant Growth Strategy Designation (Baseline Developed Area or Planned Urbanizing Area) presented in Chapters II, III, IV, V, VI, and VII.

k. Each Comprehensive Planning District shall address the need to provide sanitary sewer service, using the Sanitary Sewer Diagram presented in Chapter V.

l. Once a Comprehensive Plan for a Comprehensive Planning District is adopted consistent with all of these Policies, all subsequent discretionary actions found consistent with the Comprehensive Plan are hereby deemed to be consistent with the Modesto Urban Area General Plan.

III-12
(1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 1,200 dwelling units.

(2) [Highlighted text: Neighborhood Shopping Center(s) developed within the Mixed Use areas shall be consistent with the City's Neighborhood Shopping Center Policy]

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

a. This Comprehensive Planning District will be served by a subtrunk in Coffee Road that ties into the existing sanitary sewer system.

6. Focused EIR CEQA REVIEW:

The Focused Environmental Impact Report for this General Plan Policy III (D)(4)(g) specifically exempts the North Beyer CPD from the requirement to prepare a Focused EIR. CEQA review for the Comprehensive Plan for the North Beyer Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:

a. A total of 1,200 dwelling units was assumed for this Comprehensive Planning District.

7. Special Considerations Unique to this Comprehensive Planning District:

None.
Proposed Addendum to the Final Master EIR for the Urban Area General Plan (SCH#92052017)

a. Redevelopment Area

Upon adoption of the General Plan, the "Redevelopment Area" would be developed according to the adopted Redevelopment Plan (and the existing zoning). If a subsequent project within the "Redevelopment Area" conforms to the adopted Plan and existing zoning, the Initial Study for the project will find it to be within the scope of this Master EIR. All feasible mitigation measures appropriate to the project (as identified in the Master EIR, and in the EIR on the Redevelopment Plan) will be incorporated into the project, and public notice will be provided (pursuant to Section 21092) that the City intends to use the Master EIR for the project. When the project is approved, the City will file a Notice of Determination.

b. Baseline Developed Area

The "Baseline Developed Area" would generally be developed according to the existing (1995) zoning designations. If a subsequent project within the "Baseline Developed Area" conforms to the existing zoning, the Initial Study for the project will find it to be within the scope of this Master EIR. No further environmental review (e.g. Negative Declaration) will be required.

All feasible mitigation measures appropriate to the project (as identified in this Master EIR) will be incorporated into the project. Public notice will be provided (pursuant to Section 21092) that the City intends to use the Master EIR for the project. When the project is approved, the City will file a Notice of Determination.

c. Planned Urbanizing Area

The "Planned Urbanizing Area" is comprised of smaller areas, termed "Comprehensive Planning Districts," which are described in detail in Chapter III of the General Plan. Following adoption of the General Plan, the policies set forth in a given Comprehensive Planning District would be implemented through the subsequent adoption of a Comprehensive Plan.

A Focused EIR, as defined in Section 21158 of the Public Resources Code, shall be required for any Comprehensive Plan (The North Beyer Specific Plan, because a previous EIR was prepared (SCH #91102032), is exempt from this requirement). As long as development allowed by the proposed Comprehensive Plan does not exceed the intensities allowed by the adopted Modesto General Plan (reflected in the total number of dwelling units and acres of employment land uses specified in the Land Use Section), no analysis of cumulative impacts, growth inducing impacts, nor "irreversible significant effects on the environment" shall be required in the Focused EIR. The analysis in Chapter IV of this EIR serves to further define the analyses that would be required for each Focused EIR.
Exhibit "C"

NOVEMBER 4, 1996, SPECIFIC PLAN
CITY OF MODESTO
NORTH BEYER PARK

SPECIFIC PLAN
PUBLIC REVIEW DRAFT

PREPARED FOR:
CITY OF MODESTO
NOVEMBER 4,
OCTOBER 1996

PREPARED BY:
mid-valley engineering

LAND PLANNING • ENGINEERING • SURVEYING
900 H STREET, SUITE G MODesto, CA. 95353 TEL: (209) 526-4214
NORTH BEYER PARK
SPECIFIC PLAN

PUBLIC REVIEW DRAFT

Prepared for:
City of Modesto
Community Development Department
801 Eleventh Street
Modesto, CA 95353

Prepared by:
Mid-Valley Engineering, Inc.
900 "H" Street, Suite G
Modesto, CA 95354

November 4
October 14, 1996
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City of Modesto
North Beyer Park Specific Plan
October 11, 1996
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Chapter 1. Specific Plan Introduction

A. PURPOSE OF SPECIFIC PLAN

The North Beyer Park Specific Plan is a tool to guide the orderly development of land within the plan area. The purpose of the North Beyer Park Specific Plan is to implement the City of Modesto's General Plan as authorized by Section 65450 et. Seq. of the State Government Code. The Specific Plan provides a bridge between the General Plan's broad base goals and policies and the City's precise zoning and subdivision regulations. The North Beyer site is located within a "Comprehensive Planning District (CPD)", therefore in accordance with the City of Modesto's General Plan adopted policies the adoption of a Specific Plan is required prior to any development. This Specific Plan ensures that the city-wide effects of development projects, especially the need for providing adequate infrastructure, is addressed.

The Specific Plan was created using the City's guidelines for preparing comprehensive plans and following procedures for Specific Plans contained in Government Code Section 65453(b).

The Specific Plan area is within the North Beyer CPD and subject to the CPD policies and provisions of the City's General Plan (Exhibit III-15) which include:

1. Maximum of 1,200 dwelling units.
2. Implementing adopted City General Plan policies.

The North Beyer Specific Plan will guide development of land within the Plan area. The Specific Plan will implement Modesto's long-range objective of orderly growth by providing housing, shopping and professional offices for City residents.

B. PLAN AREA DESCRIPTION

The North Beyer Park CPD is located on the north side of Mable Avenue (See Figure 1). The site is bound by Coffee Road on the west, the extension of Claratina Avenue to the north and Oakdale Road on the east side. The project site contains approximately 160 acres.

The existing land use of the property is primarily agricultural with vineyard's occupying the middle portion of the site and peach orchards occupying about the eastern one-third of the site. There are three houses on the site, a Christmas Tree Farm, the Mable Avenue Baptist Church, and the Assyrian of the East Church. There are also barns and other farm buildings on-site.
1. Surrounding Land Use

The surrounding land uses are as follows:

**North** - (North of the Eastward Extension of Claratina Avenue) - Claratina Golf and Country Grill (Golf Course Driving Range) adjacent to Coffee Road, and agricultural uses (almond orchards, peach orchards, and vineyards).

**South** - (South of Mable Avenue all within the City of Modesto) - Vacant lot adjacent to Coffee Road, single family residences, Stockard Coffee Elementary School, Undeveloped 5 Acre City Park, City Fire Station #7, and Homewood Village Mobile Home Park.

**East** - (East Side of Oakdale Road) - Agricultural Uses - Almond orchards and a ranchette development.

**West** - (Opposite side of Coffee Road - The Claratina / Coffee Plan Area) - Silverwood Mobile Home Park, orchard, Exxon Mini-mart, existing residence and open field.

C. PLANNING PROCESS

Adoption of the Specific Plan and adoption of the North Beyer Mitigated Negative Declaration establishes and defines the planning criteria and necessary mitigation measures that will be used to guide the subsequent stages of the established planning process, when initiated by private developers and public agencies, as follows:

- Tentative Subdivision Map Application
- Land Use and Site Design Review, Where Applicable

A discussion of each of these subsequent components of the planning process following Specific Plan adoption is found in the Implementation Element of the Plan (Chapter 4).

D. STATUTORY AUTHORITY

A comprehensive plan is a policy document used to implement the “Comprehensive Planning District” concept presented in Section III-D of the City’s General Plan. The General Plan acknowledges specific plans (as defined by Section 65450 of the California Government Code) as an appropriate form of comprehensive plan to implement CPD policies. Specific Plans are authorized under Section 65450 of the Government Code for the systematic implementation of all or part of a general plan.
The North Beyer Specific Plan is intended to facilitate development within the Plan area by: 1) defining the types and distribution of land uses and the location and type of infrastructure, 2) setting development standards, and 3) documenting financing of public improvements. The Specific Plan has been prepared in accordance with the California Government Code. Section 65451 mandates that a specific plan include, at minimum, text and diagrams to describe the following:

1. The distribution, location and extent of land uses, including open space, within the plan area.

2. The proposed distribution, location, extent, and intensity of major components of public and private transportation, sewage, water, drainage, solid waste, energy, and other essential facilities proposed to be located within the plan area and needed to support land uses described in the specific plan.

3. Standards and criteria by which development will proceed and standards for the conservation, development, and utilization of natural resources, where applicable.

4. A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to implement the specific plan.

5. A statement of the relationship between the specific plan and the city's general plan.

E. RELATIONSHIP OF THE SPECIFIC PLAN TO THE GENERAL PLAN

The City adopted its current General Plan and certified the Master EIR in August 1995. The General Plan identified 25 Comprehensive Planning Districts, including North Beyer, within the City's Planned Urbanizing Area. Collectively, the CPDs cover 17,600 acres and represent the City's major urban growth area. The City's General Plan contains a comprehensive range of goals and policies to manage future growth in these districts. In addition to overall community development policies affecting all CPDs (Chapter III), the City's General Plan includes policies for developing its community services and facilities (Chapter V), and managing the City's environmental resources and open space (Chapter VII).

A General Plan Amendment will be required to revise the North Beyer Comprehensive Planning District text and map, Exhibit III-15, to allow the project's proposed non-residential uses. These proposed uses are consistent with the Neighborhood Plan Prototype Policies of the General Plan, Policy III-C-2, and a General Plan amendment will be adopted concurrently with this Specific Plan adoption.
F. SPECIFIC PLAN ADOPTION

Adoption of the North Beyer Specific Plan and adoption of the Mitigated Negative Declaration establishes the standards, criteria, and mitigation measures for tentative and final subdivision map approval, rezoning, and development of the Plan area.

Should any regulation, condition, program, or portion of this Specific Plan be ruled invalid or unconstitutional by a California or federal court of competent jurisdiction, such portions will be deemed separate, distinct, and independent provisions. The invalidity of these provisions will not affect the validity of the remaining portions of the Specific Plan or Mitigated Negative Declaration.

G. CEQA REVIEW

The North Beyer Specific Plan has received environmental review under the California Environmental Quality Act pursuant to the City’s General Plan Master EIR (SCH #92052017) through the preparation of an Initial Study leading to adoption of a Mitigated Negative Declaration (CEQA Section 21157.5). A 30-day public review period was provided for the Mitigated Negative Declaration which included the Specific Plan document. Because earlier analysis was performed on the project area for substantially similar uses, Stanislaus County LAFCo Staged EIR (SCH #91102032), a Mitigated Negative Declaration per CEQA Section 21157.5 rather than a Focused EIR was used.

Project adoption will include a General Plan Amendment exempting the North Beyer Specific Plan from the requirement for preparation of a Focused EIR, Policy III-D-1-g.
Chapter 2. Development Policies and Standards

A. LAND USE (SEE FIGURE 2)

1. General Plan Policies

North Beyer Park will be developed in compliance with applicable City General Plan community development, CPD, and related policies. Since the Plan Area is the remaining undeveloped portion of an existing developed neighborhood, land use policies relative to the development of existing neighborhoods apply. City General Plan policies regarding land uses implemented through the Specific Plan are: Overall land use policies based on the City’s zoning code, Title X of the Modesto Municipal Code (Section III-C(1)), and "Neighborhood Plan Prototype" Policies (Section III-C(2)). City General Plan policies for providing community services and facilities, maintaining public safety, and managing environmental and open space resources are included in subsequent chapters of this Specific Plan.

2. The Specific Plan Overlay Zone

The purpose of the SP-O Zone is to permit development within the North Beyer Specific Plan area under Title X of the Modesto Municipal Code and any exceptions as defined in the Specific Plan.

The City Zoning map as allowed by Section 10-2.305 of the Modesto Municipal Code, "The Zoning Map", shall indicate SP-O zoning for the area of the North Beyer Specific Plan.

3. Subsequent Exceptions to Development Regulations

The Planning Commission may grant exceptions to any of the development regulations listed in this chapter, by resolution, based on the following considerations:

a. Exception Guidelines. Exceptions may be granted to achieve the following purposes:

1. To encourage creative and efficient land uses.
2. To encourage mixed or multiple-use projects.
3. To permit variations from the density, height, and other standards in the various zones.

4. Residential (R) Zone

The R designation accommodates single family residential uses. The maximum permitted density for an overall land use area is 7.5 dwelling units acre. Areas
Lot sizes smaller than 5,000 square feet and senior housing facilities, as an example, are permitted as long as the 1,200 dwelling unit maximum is not exceeded.

Utilize the City’s zone as its development regulations with the following designated R-2 as the principal underlying zone. Under the R-Designation, a P-D Zoning is permitted as an overlay zoning provided the project does not exceed the overall land-use density and the use is consistent with the R-1 zoning. The existing churches and the Middle School site are designated R which is consistent with City policy.

5. Professional Office (PO) Zone

Professional Office uses are proposed for the area at the northeast corner of the Coffee Road and Mable Avenue intersection. A County approved 50,000 square foot office building, known as “The Arbors”, has been planned for this site. The PD zoning is permitted as an overlay zone should residential development be pursued.

5.6. Mixed Use (MU) Zone

The mixed use designation applies to a 10-acre site at the southeast corner of the Coffee Road and Claratina Avenue intersection and also a 14-acre site at the southwest corner of the Oakdale Road and proposed Claratina Expressway intersection, which would allow a possible neighborhood shopping center at both locations. The mixed use designation allows multi-family residential, commercial, office, and institutional uses in accordance with the City of Modesto’s Land Use Regulations.

6.7. Middle School (MS) Zone

This designation is intended to allow development of a 18.50 acre Middle School facility for the Sylvan Union School District.

7.8. Storm Drainage (SD) Zone

This designation is intended to permit development for storm drainage facilities to service the project area including basins and related facilities.

8.9. Land Use Regulations

The City of Modesto’s Title X Planning and Zoning Code latest edition, is hereby adopted and incorporated by reference into the North Beyer Park Specific Plan, as the Plan’s land use regulations and development standards. All development projects shall be subject to the zoning provisions that are current at the time of application. The City may grant exemptions from the certain Code provision at it’s discretion in order to implement the Plan.

Also permitted in the Mixed Use area are R-3, R-2 and R-1 uses according to the City’s zoning code. To develop non-residential areas as residential uses in excess of 1,200 total dwelling units requires a General Plan Amendment.
9.10 Improvement Standard Regulations

The City of Modesto Department of Public Works Standard Specifications are hereby adopted and incorporated by reference into the North Beyer Park Specific Plan as the Plan's Development Standards. All development projects shall be subject to the Standard Specifications that are current at the time of application. The City may grant exemptions from the certain code provisions at its discretion in order to implement the plan.
NOTES
1. MIXED USE RESIDENTIAL EQUIVALENT (R-3)* 28.3 AC. + 23 D.U./A.C. = 605 D.U.
2. PROFESSIONAL OFFICE RESIDENTIAL EQUIVALENT (R-3)* 2.5 AC. + 23 D.U./A.C. = 127 D.U.
3. NON-RESIDENTIAL USES DEVELOPED AS RESIDENTIAL (R-3)* 1,461 D.U.

* TO DEVELOP NON-RESIDENTIAL AREAS AS RESIDENTIAL USES IN EXCESS OF 1,200 TOTAL DWELLING UNITS, A GENERAL PLAN AMENDMENT IS REQUIRED.

Legend:
- Plan area boundary
- Property ownership line
- M.U. - Mixed Use R-3, R-2 or R-1
- P.O. - Professional Office, R-3, R-2 or R-1
- R - Residential (R-1)
- Existing school sites
- Storm drainage basins

Neighborhood Shopping Center

Note: Bike Paths from the City's Non-Motorized Transportation Master Plan

Class I - Pelanda Expressway
Class II - Coffee and Oakdale Roads

LAND USE DIAGRAM
FIGURE 2
Chapter 3. Public Facilities

A. OVERVIEW

The North Beyer Park Plan area infrastructure system is an extension of the existing neighborhood area's infrastructure. Buildout of the plan area was planned for as part of the existing neighborhood planning areas. This chapter describes development of the transportation and circulation, wastewater collection, water delivery, storm water drainage, utilities (electricity, street lighting, natural gas, telephone, cable television, irrigation), and parks and recreation necessary to support development in the Plan Area. Improvement of North Beyer infrastructure will be as described in the General Plan policies in Chapter V, Community Services and Facilities.

B. INFRASTRUCTURE PLAN

The North Beyer Park Infrastructure Plan is shown on Figures 3 and 4, and incorporated into this Specific Plan. The figures serve as a design schematic for the planning area infrastructure and does not represent specific alignments or locations for facilities. The figures indicate the preliminary sizing and design for backbone infrastructure in the planning area. Exact phasing and design will be determined as development occurs. Prior to the recording of subdivision maps, improvement plans consistent with the general design in this Specific Plan shall be approved by the City.

1. Sanitary Sewer Service (See Figure 3)

The existing 18" subtrunk sewer main at Coffee Road at Sylvan Meadows Drive will be utilized to serve the North Beyer Park Plan Area. A sewer lift station must be installed in order to obtain the depth required to accommodate the expected construction and build-out of the Plan Area. A "sub-trunk" sewer line must be extended from the pump station north up Coffee Road to the proposed Claratina Expressway, and then extending east down the Expressway to serve the North Beyer Park project. The pump station and "sub-trunk" sewer system in Coffee Road will be sized to serve both the North Beyer Park Plan Area and the Claratina / Coffee Plan Area. The "sub-trunk" system and sewer lift station and force main shall be funded by the City with fees collected for that purpose.

2. Storm Drainage (See Figure 4)

A positive storm drainage system comprised of catch basins, pipelines and storm drain basins is proposed to serve this project. The storm drain basins will be constructed as development occurs. The storm drain collection system and basins will be designed in accordance with the City of Modesto and Stanislaus County Standards and specifications.
3. Water (See Figure 3)

City water service will be provided to the entire plan area through connection to the existing water mains in Mable Avenue. An existing 10" water main and a 24" transmission water main which lie in Mable Avenue are part of a larger looped water system designed to serve the entire Plan Area. All private wells shall be abandoned and capped at the time of development, in accordance with the City of Modesto, Stanislaus County and Department of Health Services Standards.

C. TRANSPORTATION AND CIRCULATION

1. Overview

The North Beyer Park Plan Area circulation system represents a logical extension of the City's existing arterial and collector street system as specified in the General Plan. The plan provides for the dedication of right-of-way (R.O.W.) that is required within North Beyer Park for the proposed Claratina Expressway. Additional dedication will be necessary for the expressway which will be required by the properties north of the Plan Area as future development occurs. The Specific Plan and Mitigated Negative Declaration preparation included a traffic analysis performed under the direction of the City of Modesto Public Works and Transportation Department.

2. Specific Plan Street Classifications

Table 2 (below) Specific Plan Street Classifications, describes the streets which are a part of the North Beyer Park Plan Area. The street classifications correspond to Public Works Standards. Street cross-sections shall conform to Public Works Standards and policies unless exceptions are identified in the Specific Plan.

<table>
<thead>
<tr>
<th>Street / Classification</th>
<th>Street R.O.W.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class B Expressway (Claratina Expressway)</td>
<td>135 Feet*</td>
</tr>
<tr>
<td>Principle Arterial (Oakdale Road)</td>
<td>114 Feet*</td>
</tr>
<tr>
<td>Minor Arterial (Coffee Road)</td>
<td>100 Feet*</td>
</tr>
<tr>
<td>Collector Street (Mable Avenue)</td>
<td>60 Feet*</td>
</tr>
<tr>
<td>Minor Residential Street</td>
<td>50 Feet</td>
</tr>
</tbody>
</table>

* Additional right-of-way may be required at intersections per City of Modesto Standard Specifications.

a. Class B Expressway - Claratina Avenue is designated as an expressway in the
### Concurrent with Project Development (1-5 Years)

<table>
<thead>
<tr>
<th>Facility</th>
<th>Impact (Level of Service)</th>
<th>Recommended Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coffee / Claratina Intersection</td>
<td>LOS F</td>
<td>Signals needed plus four lane improvements</td>
</tr>
<tr>
<td>Coffee / Mable Intersection</td>
<td>Future Turning Movements</td>
<td>Provide adequate setbacks and dedication at northeast corner for future intersection turn lanes</td>
</tr>
<tr>
<td>Claratina Expressway</td>
<td>LOS Degraded on Surrounding Roadways</td>
<td>Dedicate right-of-way along adjacent projects</td>
</tr>
<tr>
<td>Fronting roadways of development: Coffee Road Oakdale Road Mable Avenue</td>
<td>LOS is degraded</td>
<td>Dedicate and improve roadway to City Standards along fronting projects</td>
</tr>
</tbody>
</table>

### 5 Years (Phase 1 of Project)

<table>
<thead>
<tr>
<th>Facility</th>
<th>Impact (Level of Service)</th>
<th>Recommended Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coffee / Mable Intersection</td>
<td>LOS F</td>
<td>Signals needed plus improvements per study</td>
</tr>
<tr>
<td>Fronting roadways of development: Claratina Expressway Coffee Road Oakdale Road Mable Avenue</td>
<td>LOS is degraded</td>
<td>Dedicate and improve roadway to City Standards along fronting projects</td>
</tr>
</tbody>
</table>

### Year 2025 (Project Buildout)

<table>
<thead>
<tr>
<th>Facility</th>
<th>Impact (Level of Service)</th>
<th>Recommended Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coffee / Claratina Intersection</td>
<td>LOS E</td>
<td>Three through lanes needed and upgrade signals</td>
</tr>
<tr>
<td>Coffee / Sylvan Intersection</td>
<td>LOS D</td>
<td>None</td>
</tr>
<tr>
<td>Oakdale / Sylvan Intersection</td>
<td>LOS C</td>
<td>Dedicate and improve to City Standards</td>
</tr>
<tr>
<td>Coffee / Mable Intersection</td>
<td>LOS E</td>
<td>Dual southbound turn lanes if no mid-block median break on Coffee Road</td>
</tr>
<tr>
<td>Oakdale / Mable Intersection</td>
<td>LOS B</td>
<td>Signals needed</td>
</tr>
<tr>
<td>Claratina Expressway</td>
<td>LOS F at intersections</td>
<td>Six through lanes needed</td>
</tr>
<tr>
<td>Fronting roadways of development: Coffee Road Oakdale Road Mable Avenue</td>
<td>LOS is degraded</td>
<td>Dedicate and improve roadway to City Standards along fronting projects</td>
</tr>
</tbody>
</table>
General Plan. Public Works analysis has determined Claratina Avenue to be a 135' Class B Expressway. The Expressway will ultimately connect from Highway 99 to the Claus Road Expressway. The expressway shall include a Class I Bike Trail that will link up with the Claratina and Claus Road trails consistent with the City of Modesto's Non-Motorized Transportation Master Plan. There is no direct Nexus between the expressway improvements and development of North Beyer Park, since the North Beyer Park Plan Area receives no direct benefit from the expressway. As property owners develop within the Plan Area they will be required to dedicate right-of-way for the expressway and construct a sound wall along the property adjacent to the expressway.

b. **Arterial Streets** - The extensions of two arterial streets, Coffee Road and Oakdale Road are part of the City’s circulation system. Coffee and Oakdale Roads shall include a Class II Bike Lane consistent with the City of Modesto’s Non-Motorized Transportation Master Plan. Coffee Road will be improved as a 100’ minor arterial and Oakdale Road will be a 114’ principle arterial per Public Works Standards.

c. **Collector Streets** - Existing Mable Avenue is the only 60’ collector street crossing the Plan Area. Mable Avenue will connect Coffee and Oakdale Roads.

d. **Minor Residential Streets** - Minor residential streets provide internal neighborhood circulation while minimizing through traffic. This street network will be determined at the time each individual property owner develops. No connection will be permitted between minor residential streets and the proposed Claratina Expressway through the planned residential areas.

**D. TRAFFIC CIRCULATION SYSTEM ANALYSIS**

The following outline shows general traffic circulation system improvement needs anticipated for the next 30 years based on the Traffic Impact Analysis prepared by kdAnderson Transportation Engineers. These needs cover areas adjacent to and outside the project area. A majority of these improvements would be needed even without this project. A listing of these needs does not indicate the project responsibility which can be found in Chapter 4, Implementation and Financing.
E. SCHOOLS

The North Beyer Park project will be served by the Sylvan Union School District for grades Kindergarten (K) through 8, and by the Modesto High School District for 9-12. The North Beyer Park Plan Area is proposing a 18.50 net acre middle school site as shown on the Land Use Diagram (Figure 2). The school site will have a west orientation facing the existing church sites. As stated in the City's General Plan (Policy VH.3.i, Page V-25), the City considers impacts on public school capital facilities fully mitigated when it receives a letter stating that the school district and project proponent have resolved school impacts and the means by which they are resolved. School Impact Fees shall be consistent with the existing Community Facilities District (CFD) which has been formed by Modesto City Schools and Sylvan Union School District (SIFA CFD 1994-1). One project (approximately 55 acres of residential) within the North Beyer Park Plan Area has already annexed to the CFD.

F. PARKS

In Modesto, open space is provided through a comprehensive network of regional, community and neighborhood parks. The North Beyer Park Specific Plan is the remaining portion of an existing neighborhood and lies within Park Planning Area No. 9 as shown on Figure V-5 of the General Plan. There are existing and planned parks within the neighborhood. Payment of capital facilities fees will mitigate the projects impact to parks and open space demand in the area. The fees collected should be used for development of the existing City Steckard/Coffee Park which completes the buildout of the City's Park Planning Area No. 9 and would be an enhancement to the North Beyer Park Plan Area and the surrounding community.
NOTE:
 THIS MAP DOES NOT SHOW ALL EXISTING STORM DRAIN, SEWER, WATER, OR UTILITIES OR IRRIGATION WHICH MAY SURROUND THE PLAN AREA.
Chapter 4. Implementation and Financing

A. PLAN IMPLEMENTATION

The following defines the implementation measures that will guide development within the Plan Area.

1. Action required for implementation of the North Beyer Park Specific Plan

The following actions are required prior to development of land uses proposed in the Specific Plan:

   a. Approval of tentative and final subdivision maps.
   b. Approval of land use and site design review, where applicable.

2. Tentative and Final Subdivision Map Approvals

Implementation of residential uses in the Plan Area will require processing of a tentative map. The tentative map process is governed by the City's Subdivision Ordinance and the State Subdivision Map Act (Sections 66410 et seq.). Tentative and Final Subdivision Map approval requires conformance to the requirements of the Specific Plan and Mitigated Negative Declaration for the Specific Plan.

3. Specific Plan Amendment Process

Any amendments to Specific Plans shall be in accordance with Section 65453 of the Government Code which provides the amendment procedure for Specific Plans.

B. IMPLEMENTATION POLICIES

The following policies will be used to implement the long range financing strategy:

1. Unless specifically excepted, each property owner shall finance and construct improvements as specified in the Specific Plan, and in accordance with the City of Modesto Standards which occur directly on their property.

2. The referenced improvements will be sized by each property owner, in accordance with the Specific Plan. In the event that the properties develop out of sequence, each property owner is required to provide easements and access that may be necessary to install facilities for the benefit of the other property owners. Each property owner will reimburse
the other(s) for their oversize expenses at the time of filing the first final map within each development, building permit or connection to the system whichever occurs first.

3. The existing city-wide and County fees for new construction will prevail for development within the Plan Area and are intended to pay for the improvements as specified in this Specific Plan.

4. Property owners may receive credits to the payment of city-wide and County fees to the extent that there exists any duplication of improvements provided by the property owner versus improvements intended by the fee structure.

5. Accounting for facility oversizing will be the responsibility of the property owners, in conformance with City Policies and Standards. Repayment will be enforced by the City by being part of the City’s requirement for the subdivision map filing. Disputes among property owners will be subject to binding arbitration by a member of the American Arbitration Association (AAA). Outstanding balances for oversizing will be subject to 10% annual interest, payable by the benefiting “downstream” property owner at the time of final map filing, building permit or connection to the system whichever occurs first.

6. The costs of developing the Specific Plan, including but not limited to traffic studies, noise studies and environmental documentation, shall be reimbursed to the property owners who have invested those costs. Reimbursement shall be through plan application fees required from non-contributing property owners. It shall be an equal share of the costs to prepare the Specific Plan, and shall be paid as a part of each individual property owners Tentative Map Application fee. The existing church sites within the Plan Area shall not be responsible for the costs associated with the development of the Specific Plan. The property owner financing the Specific Plan shall assume responsibility for maintaining accounting records to established City standards. Any disputes which arise shall be resolved through binding arbitration by the American Association of Arbitrators (AAA).

7. The City shall require dedication of land for road improvements and construction of arterial and collector street improvements consistent with city-wide policies and regulations.

8. Reimbursement for oversizing utility lines and roadway improvements shall also be consistent with city-wide policies and regulations.
C. CEQA MITIGATION MONITORING

CEQA Section 21081.6 requires the public agency approving a project to adopt a reporting or monitoring program for mitigation measures made conditions of project approval. The North Beyer Specific Plan complies with this requirement by incorporating the mitigation measures from the North Beyer Mitigated Negative Declaration (project CEQA review document) into the Specific Plan as development policies and/or standards. These measures are thus fully enforceable with project approval.

D. FINANCING

A long range financing strategy for the North Beyer Park Plan Area is provided as part of this Specific Plan, both in accordance with State Government Code Requirements and with the City of Modesto Urban Area General Plan Policy.

A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with individual project development. These infrastructure improvements shall be sized according to identified future needs with compensation from property owners who will receive future benefit. The City of Modesto does require Specific Plans to provide for the installation and maintenance for certain public facilities through participation in a City Mello-Roos Community Facilities District.

The infrastructure element of the North Beyer Park Plan Area describes a number of community facilities necessary to implement the plan. The following funding sources will be used to cover the costs of those facilities. All interior infrastructure shall be installed by individual property owners as projects develop:

1. Cerelinda Expressway
   a. Funding Source: City of Modesto's Capital Facilities Fee Program (CFF).
   b. Net cost to City: None. City wide fees will provide financing for these improvements.
   c. Developer to dedicate right-of-way and construct sound wall.

2. Principle / Minor Arterials
   (Coffee and Oakdale Roads)
   a. Funding Source: Existing City wide fees and individual property owner/developer's requirements.
   b. Medians and landscaping setbacks along soundwalls. Funding Source: City Mello-Roos Community Facilities District
Net cost to City: None. Existing City policies govern the dedication of land for road improvements and requires developers of a given road frontage to construct the first 40' of the road improvements measured from the property line. The City would be responsible for any improvements required beyond the 40'.

3. Collector Street (Mable Avenue) / Minor Residential Streets

a. Funding Source: Individual property owners/developers shall be responsible for street improvements adjacent to their property.

b. Net Cost to City: None. Development will provide financing for these improvements.

4. Water

a. Funding Source: Existing City wide user fees and Developer Requirements.

b. Net Cost to City: None. The existing water distribution lines in Mable Avenue will be utilized to serve the North Beyer Park Plan Area. The Plan Area shall be subject to the typical City of Modesto water related fees (i.e. water systems fee, water meter fee, water connection fee, etc.) which are applicable to each individual property owner/developer at the time of development.

5. Sanitary Sewer (Pump Station, Force Main and Sub-Trunk System)

a. Funding Source: City Sub-trunk sewer fee which is designated to fund sub-trunk sewers. City sewer bond redemption charge which includes a component for lift stations.

b. Net Cost to City: None. City wide user fees as described above are sufficient to pay for needed sewer infrastructure facilities.

6. Storm Drainage

a. Funding Source: Each individual property owner/developer shall be responsible for installation of infrastructure improvements (i.e. main storm drain trunk system, storm drain basin) which are required for development of their property and are in accordance with this Specific Plan.
b. Net Cost to City: None. Development will provide financing for these improvements.

7. Schools

a. Funding Source: Separate agreement with school district or annexation into the Village One Schools Infrastructure Financing Agency (SIFA CFD 1994-1).

b. Net Cost to City: None. The individual property owners/developers shall reach full agreement with Modesto City Schools and the Sylvan School District to insure funding and to mitigate impacts to the school districts.

8. Parks - None Are Required Within the Plan Area

a. Park fees will be paid within the North Beyer Park Plan Area.

b. The Stockard / Coffee Park Development should be given a priority position on the City’s CIP.

c. Net Cost to City: None. City wide fees and development will provide financing for park improvements.

F. UTILITIES

Electricity - Electricity to the Plan Area shall be provided by the Modesto Irrigation District (MID).

Street Lighting - Street lighting shall be provided along the streets per Public Works Standards as individual properties develop.

Natural Gas - Natural gas service shall be provided by Pacific Gas and Electric (P.G. & E.).

Telephone - Telephone service shall be provided by Pacific Bell.

Cable Television - Television service shall be provided by Post Newsweek Cable.

Irrigation - Irrigation service is currently provided by the Modesto Irrigation District and, existing irrigation facilities will be abandoned and/or relocated as properties develop.
G. INFRASTRUCTURE COST SHARING

Developers that install oversized facilities consistent with this Specific Plan and benefitting other parts of the Plan Area shall be reimbursed. The cost of infrastructure improvements shall be distributed throughout the Plan Area based on a project's relative benefit. A reimbursement agreement or some other form of reimbursement method shall be secured at the appropriate time in the approval process (prior to the recordation of a final map).
Proposed Revisions/Additions to the

November 4, 1996
North Beyer Park Draft Specific Plan

Modesto Planning Commission
Agenda Item B,
November 4, 1996
C. CEQA MITIGATION MONITORING

CEQA Section 21081.6 requires the public agency approving a project to adopt a reporting or monitoring program for mitigation measures made conditions of project approval. The North Beyer Specific Plan complies with this requirement by incorporating the mitigation measures from the North Beyer Mitigated Negative Declaration (project CEQA review document) into the Specific Plan as development policies and/or standards. These measures are thus fully enforceable with project approval.

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The infrastructure element of the North Beyer Park Plan Area describes a number of community facilities necessary to implement the plan. The following funding sources will be used to cover the costs of those facilities. All interior infrastructure shall be installed by individual property owners as projects develop:

1. Gératina Expressway
   a. Funding Source: City of Modesto’s Capital Facilities Fee Program (CFF).
   b. Net cost to City: None. City wide fees will provide financing for these improvements.
   c. Developer to dedicate right-of-way and construct sound wall.
   d. The City will reimburse the developer the cost of 12’ of right-of-way.
   e. The City is responsible for all improvements of the Pelandale Expressway except the soundwall which is the developer's responsibility.

2. Principle / Minor Arterials
   (Coffee and Oakdale Roads)
   a. Funding Source: Existing City wide fees and individual property owner/developer’s requirements.
   b. Medians and landscaping setbacks along soundwalls.
      Funding Source: City Mello-Roes Community Facilities District.
General Plan. Public Works analysis has determined Claratina Avenue to be developed to a 135' Class B Expressway. The Expressway will ultimately connect from Highway 99 to the Claus Road Expressway. The expressway shall include a Class I Bike Trail that will link up with the Claratina and Claus Road trails consistent with the City of Modesto's Non-Motorized Transportation Master Plan. There is no direct Nexus between the expressway improvements and development of North Beyer Park, since the North Beyer Park Plan Area receives no direct benefit from the expressway. As property owners develop within the Plan Area they will be required to dedicate right-of-way for the expressway and construct a sound wall along the property adjacent to the expressway. The City will be responsible for all improvements on the Pelandale Expressway except for the soundwall which will be the developer's responsibility. The City will reimburse the developer the cost of 12' of right-of-way.

b. Arterial Streets - The extensions of two arterial streets, Coffee Road and Oakdale Road are part of the City's circulation system. Coffee and Oakdale Roads shall include a Class II Bike Lane consistent with the City of Modesto's Non-Motorized Transportation Master Plan. Coffee Road will be improved as a 100' minor arterial and Oakdale Road will be a 114' principle arterial per Public Works Standards.

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The following outline shows general traffic circulation system improvement needs anticipated for the next 30 years based on the Traffic Impact Analysis prepared by kdAnderson Transportation Engineers. These needs cover areas adjacent to and outside the project area. A majority of these improvements would be needed even without this project. A listing of these needs does not indicate the project responsibility which can be found in Chapter 4, Implementation and Financing.
3. Water (See Figure 3)

City water service will be provided to the entire plan area through connection to the existing water mains in Mable Avenue. An existing 10" water main and a 24" transmission water main which lie in Mable Avenue are part of a larger looped water system designed to serve the entire Plan Area. All private wells shall be abandoned and capped at the time of development, in accordance with the City of Modesto, Stanislaus County and Department of Health Services Standards.

C. TRANSPORTATION AND CIRCULATION

1. Overview

The North Beyer Park Plan Area circulation system represents a logical extension of the City’s existing arterial and collector street system as specified in the General Plan. The plan provides for the dedication of right-of-way (R.O.W.) that is required within North Beyer Park for the proposed Claratina Expressway. Additional dedication will be necessary for the expressway which will be required by the properties north of the Plan Area as future development occurs. The Specific Plan and Mitigated Negative Declaration preparation included a traffic analysis performed under the direction of the City of Modesto Public Works and Transportation Department.

2. Specific Plan Street Classifications

Table 2 (below) Specific Plan Street Classifications, describes the streets which are a part of the North Beyer Park Plan Area. The street classifications correspond to Public Works Standards. Street cross-sections shall conform to Public Works Standards and policies unless exceptions are identified in the Specific Plan. The following exceptions shall apply:

<table>
<thead>
<tr>
<th>Street / Classification</th>
<th>Street R.O.W.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class B Expressway (Claratina Expressway)</td>
<td>135 Feet*</td>
</tr>
<tr>
<td>Principle Arterial (Oakdale Road)</td>
<td>114 Feet*</td>
</tr>
<tr>
<td>Minor Arterial (Coffee Road)</td>
<td>100 Feet*</td>
</tr>
<tr>
<td>Collector Street (Mable Avenue)</td>
<td>60 Feet*</td>
</tr>
<tr>
<td>Minor Residential Street</td>
<td>50 Feet</td>
</tr>
</tbody>
</table>

Additional right-of-way may be required at intersections per City of Modesto Standard Specifications.

a. Class B Expressway - Claratina Avenue is designated as an expressway in the
Exhibit "E"
Neighborhood Shopping Center Policy
North Beyer Specific Plan

For each of the two neighborhood shopping centers, plot plan approval by the Planning Commission shall be required. Conditions of plot plan approval shall include:

1. The first phase of development shall include construction of a supermarket. Construction of other permitted commercial uses may accompany construction of the supermarkets subject to the condition that the supermarkets shall be the first use to open for business.

2. The time limit for commencement of construction of the first phase of development of Neighborhood Shopping Center shall not be more than three years from the effective date of plot plan approval by the Planning Commission.

3. If construction of the first phase of a Neighborhood Shopping Center does not occur within the specified time limitations, the City may consider applications for development of another neighborhood shopping center at another corner of the same intersection as that of the subject neighborhood shopping center.

Exhibit "E"
As Revised 11/4/96
Neighborhood Shopping Center Policy
North Beyer Specific Plan

For each of the two Mixed-Use/Neighborhood shopping centers, plot plan approval by the Planning Commission shall be required prior to development. Performance standards deemed necessary by the Commission shall be required at that time.
MODESTO CITY COUNCIL
RESOLUTION NO. 96-642

A RESOLUTION APPROVING THE VESTING TENTATIVE MAP OF NORTH BEYER PARK SUBDIVISION.

WHEREAS, the vesting tentative map of the North Beyer Park Subdivision was filed in the office of the Secretary of the Planning Commission on August 26, 1996, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code, and

WHEREAS, copies of said vesting tentative map have been sent to the Sylvan Elementary School and Modesto High School Districts, and Modesto Irrigation District, the local utility companies, and the City Public Works and Transportation Department, and

WHEREAS, City services, including sewer and water facilities, are available, and

WHEREAS, the area can be served by elementary schools in the Sylvan School District and by Fire Station #7 at 1800 Mable Avenue, less than one mile distant, and

WHEREAS, a public hearing was held by the Planning Commission on November 18, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Modesto City Planning Commission adopted Resolution No. 96-58, recommending to the City Council approval of the Vesting Tentative Map for North Beyer Park Subdivision,
and

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 26, 1996, at 7:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed approval of the Vesting Tentative Map for North Beyer Park Subdivision,

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

1. That the proposed vesting subdivision, together with the provisions for its design and improvements, is consistent with the General Plan and applicable specific plans of the City of Modesto and the Subdivision Map Act of the State of California.

2. That the discharge of waste from the proposed vesting subdivision into the existing sewer system will not result in a violation of existing requirements by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California.

3. That the project is in conformance with the MEIR of the General Plan and therefore should be adopted by the City Council.

BE IT FURTHER RESOLVED by the City Council that the vesting tentative map of North Beyer Park Subdivision accepted for filing in the office of the Secretary of the Planning Commission on August 26, 1996, is hereby approved as shown in red on the face of the map and subject to the following conditions:
1. That full dedication be provided for the 67.5-feet-wide frontage along the full length of future Claratina Expressway that borders this proposed subdivision.

2. That all street dedication be provided and subdivision improvements shall be constructed in accordance with City of Modesto Standard Specifications and as required by the Public Works and Transportation Director pursuant to improvement plans.

3. That public utility easements, as required by the utility companies serving the subdivision, shall be dedicated by the final map.

4. That a seven-foot-high decorative masonry wall shall be provided along the southern edge of the Claratina Expressway.

5. That irrigation lines within the subdivision shall be removed, protected, or relocated as required by the Modesto Irrigation District and the Public Works and Transportation Director. Appropriate easements for irrigation lines to remain shall be dedicated as necessary.

6. The street light between lots 36 and 37 shall be relocated to satisfaction of Public Works and Transportation Department.

7. That 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 and its advisory agency, appeal board, or a legislative body concerning a subdivision. The City of Modesto shall promptly notify the subdivider 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.

8. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this subdivision map shall be
based on the rates in effect at time of issuance of the building permit.

9. That prior to recordation of a final subdivision map, the subdivider shall contact the United States Postal Service for review and establishment of a mail delivery plan.

10. That prior to recordation of a final map, or prior to final inspection of the first house, the subdivision area shall be annexed into a City Mello-Roos District (CFD).

11. Prior to recordation of a final map, the subdivision area shall be annexed to a School's Mello-Roos District.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, Mcclanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
RESOLUTION NO. 96-643

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): APPROVING THE VESTING TENTATIVE MAP OF NORTH BEYER PARK SUBDIVISION.

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

WHEREAS, on November 6, 1996, the City’s Community Development Department by Environmental Assessment 96-139 has reviewed the proposed amendment to the General Plan, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures or alternatives may be required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, on November 18, 1996, the Modesto Planning Commission, after a duly noticed public hearing, adopted Resolution No. 96-58, recommending to the City Council approval of the vesting tentative map of North Beyer Park Subdivision,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared on November 6, 1996, for the proposed
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 report.

2. The project will have no new additional significant effects on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

3. 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 specific features which are unique to the proposed project that require project specific mitigation measures. All the certified mitigation measures identified in the Master EIR will apply city-wide.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice pursuant to either Section 21108 or 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, 1996, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

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

I. PURPOSE

The Master Environmental Impact Report (MEIR) for the Modesto Urban Area General Plan allows for limited environmental review of the North Beyer Park Subdivision. The Final MEIR (SCH #92052017) was certified by the Modesto City Council on August 15, 1995.

This Initial Study in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan, and whether this project was described in the Master Environmental Impact Report as being within the scope of the Master Environmental Impact Report. This Initial Study also provides documentation that this project is within the scope of the project covered by the Master Environmental Impact Report.

This project is consistent with both the MEIR and General Plan as a subsequent project in that the proposed subdivision lies within the North Beyer CPD as shown on the Adopted Land Use Diagram, (figure III-1) of the MEIR. This proposal is further defined within the General Plan in Exhibit III-15 where upon this area has been designated "Residential." The impact of these new residences was analyzed within the scope of the MEIR and further reflected in its current zoning of R-1 (Single Family Residential). The proposed subdivision is consistent with the projected land use intensity, the general Plan designation, and the MEIR, and thus is considered a "subsequent" project.

II. PROJECT DESCRIPTION

A. Project title: North Beyer Park Vesting Tentative Subdivision Map

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

C. Contact person and phone number:
John Mayer, City of Modesto, (209) 577-5267

D. Project Location:
North of Mabel Avenue, south of the Claratina Expressway extended, east of Coffee Road and west of Oakdale Road.

E. Project sponsor: Mid Valley Engineering

Exhibit "A"
F. General Plan Designation: Residential

G. Zoning: R-1

H. Description of Proposed Project:
This proposed Vesting Tentative Subdivision Map is a 263 single family residential lot subdivision, located just north of Mabel Avenue, at Northview Drive and Palmwood Drive. It is part of the build-out of the existing Beyer Neighborhood. It will be accessed by two residential streets from Mabel Avenue. A temporary storm drainage basin will handle all storm water runoff until the more permanent facility is completed off site. This lot sizes are between 5500 and 8000 square feet in size, which is consistent with the size of lots in the Sylvan Meadows East subdivision to the south.

I. Surrounding land uses: This project is surrounded by agriculture on all sides except to the south where Homewood Village Mobile Home Park, the existing City fire station, the existing Stockard-Coffee School, as well as the north east corner of the Sylvan Meadows East No. 3 subdivision are located.

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 North Beyer Park Subdivision will provide approximately 1868 linear feet of public street right-of-way along the Claratina expressway and again along Mabel Avenue. The access points with the minor offset modifications are consistent with all Public Works and Transpiration standards. This is consistent with the Traffic and Circulation needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are still valid.

B. Degradation of Air Quality
This proposed subdivision will provide infill housing within the City of Modesto. It is part of the build-out of an existing neighborhood. It will not have 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, still valid.

C. Generation of Noise
This subdivision project is adjacent to and surrounded by urban development. Although the project will add additional traffic and housing to the neighborhood, it will not create additional significant effects beyond those identified in the impact analysis. The Existing Conditions, Impacts Analysis, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are, therefore still valid.

D. Loss of Productive Agricultural Land
The project is adjacent to Urban and Built-up land to the south, as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. The resulting loss of agricultural land for this project has been previously analyzed and considered. 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, therefore still valid.

E. Increased Demand for Water Supplies
This proposed subdivision project which will provide for additional residential housing, will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11 are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services
This proposed vesting tentative subdivision map project will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.

G. Loss of Sensitive Wildlife and Plant Habitat
This proposed subdivision will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are, therefore, still valid.

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

I. **Drainage, Flooding and Water Quality**
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

J. **Increased Demand for Storm Drainage**
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures both current and long term will help to reduce the impacts of increased runoff within the planned urbanizing area to a less than significant level. 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, therefore still valid.

K. **Increased Demand for Parks and Open Space**
This project will not have an effect upon the parks or open space needs in the area. A new City Park will be located south of this proposed development. 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, therefore still valid.

L. **Increased Demand for Schools**
Additional residential development within the Sylvan Union School District and Modesto City Schools attendance areas from this proposed subdivision will have an adverse impact on the educational facilities. However, the MEIR has determined that the mitigation measures for this impact adequately mitigate the impacts to a "less than significant level." Thus 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, therefore still valid.

M. **Increased Demand for Police Services**
This subdivision proposal has a less than significant impact upon the need for additional police services to this area. 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, therefore still valid.
N. Increased Demand for Fire Services
This subdivision proposal has a less than significant impact upon the need for additional fire services to this area. Fire Station Number 7 is less than one mile away. 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, therefore still valid.

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

P. Generation of Hazardous Materials
This proposal will result in no additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-14) are, therefore 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
This proposal will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are, therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV DETERMINATIONS AND FINDINGS
"Based on substantial evidence provided in the Initial Study, the City of Modesto determines:

(a) The subsequent project will not cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and the subsequent project was described in the Master Environmental Impact Report as being within the scope of the Master Environmental Impact Report."
(b) The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158, that was not identified in the Master Environmental Impact Report and no new or additional mitigation measure or alternatives may be required.

Based on substantial evidence in the Initial Study, the City of Modesto finds:

(a) The subsequent project is within the scope of the project covered by the Master Environmental Impact Report.

(b) All feasible mitigation measures set forth in the Master Environmental Impact Report which are appropriate to the subsequent project shall be incorporated into the subsequent project."

Signature: ____________________ Date: 11/6/96
A RESOLUTION WAIVING FORMAL BID PROCEDURES AND AUTHORIZING THE PURCHASE OF CO-COMPOST EQUIPMENT

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that formal bid procedures for the purchase of co-compost equipment is hereby waived.

BE IT FURTHER RESOLVED that purchase of co-compost equipment for a not to exceed price of $1,175,911.41.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Fisher, Friedman, McClanahan, Serpa

NOES: Councilmembers: Dobbs, Mayor Lang

ABSENT: Councilmembers: None

ATTEST: JEAH ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-645

A RESOLUTION WAIVING FORMAL BID PROCEDURES AND AUTHORIZING THE PURCHASE OF ONE TRUCK WITH TANK, ONE STORAGE TANK, ONE WATER REEL, AND ONE OFFICE TRAILER

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that formal bid procedures for the purchase of one truck with tank, one storage tank, one water reel, and one office trailer is hereby waived.

BE IT FURTHER RESOLVED that purchase of one truck with tank, one storage tank, one water reel, and one office trailer for a not to exceed price of $144,696.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Fisher, Friedman, McClanahan, Serpa

NOES: Councilmembers: Dobbs, Mayor Lang

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-646

A RESOLUTION AMENDING THE 1996-97 ANNUAL BUDGET TO PROVIDE FUNDING FROM THE WASTEWATER FUND CONTINGENCY RESERVE TO PURCHASE CO-COMPOST EQUIPMENT

WHEREAS, the Council has endorsed the concept of the co-composting program and the equipment to operate the facility must be ordered by early November for startup operations in January 1997; and

WHEREAS, the procurement process evaluated several acquisition options and the City will realize substantial asset savings on direct and contractual costs through ownership of the equipment; and

WHEREAS, $1,018,934 will be appropriated from the Wastewater Fund Contingency Reserve, and the amount of $156,978 will be transferred from Account #621-480-5222-0216 to purchase the co-composting equipment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 1996-97 Annual Budget is hereby amended as follows:

<table>
<thead>
<tr>
<th>Wastewater Fund</th>
<th>Increase (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>#621-800-8000-8003 Contingency Reserve</td>
<td>$(1,018,934)</td>
</tr>
<tr>
<td>#621-480-5222-216 Equipment Rental - Outside</td>
<td>$(156,978)</td>
</tr>
<tr>
<td>#621-480-H411-6070 Co-Composting Equipment Acquisition</td>
<td>$1,175,912</td>
</tr>
</tbody>
</table>

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 day of November 26, 1996, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Fisher, Friedman, McClanahan, and Serpa

NOES: Councilmembers: Dobbs and Mayor Lang

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk

(seal)

APPROVED AS TO SUFFICIENCY:

By: Stan Feathers, Budget Officer
MODESTO CITY COUNCIL
RESOLUTION NO. 96-647

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MODESTO DECLARING ITS INTENTION TO
REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR
MORE TAX-EXEMPT FINANCINGS FOR CERTAIN
EXPENDITURES MADE AND/OR TO BE MADE IN
CONNECTION WITH THE ACQUISITION, CONSTRUCTION
AND EQUIPPING OF CERTAIN CAPITAL
IMPROVEMENTS.

WHEREAS, the City of Modesto (the "City") is a chartered city and municipal corporation organized and existing under the Constitution and laws of the State of California, and

WHEREAS, the City has paid, beginning no earlier than September 25, 1996, and will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition, construction and equipping of certain capital improvements in connection with its wastewater system (the "Project"), as more fully described in Exhibit A attached hereto, and

WHEREAS, the City Council of the City (the "Council") has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds"),

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

[Resolution text continues...]

11/14/96
SECTION 1. The Council hereby declares the City's intent to reimburse the City with the proceeds of the Bonds for the Expenditures with respect to the Project made on and after September 25, 1996, which date is no more than 60 days prior to the date hereof. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

SECTION 2. Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City.

SECTION 3. The maximum principal amount of the Bonds expected to be issued for the Project is $35 Million.

SECTION 4. The City will make a reimbursement allocation, which is a written allocation by the City that evidences the City's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City recognizes
that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

SECTION 5. This resolution shall take effect upon its adoption by the City 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, 1996, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Fisher, Friedman, McClanahan, Serpa
NOES: Councilmembers: Dobbs, Mayor Lang
ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
DESCRIPTION OF PROJECT

The project consists of the acquisition, construction and equipping of certain capital improvements to the City’s wastewater system and related costs and facilities.
A RESOLUTION AUTHORIZING CALL FOR BIDS FOR FURNISHING ONE NEW TRAILER-MOUNTED STUMP CUTTING MACHINE FOR THE PUBLIC WORKS AND TRANSPORTATION FLEET SERVICES DIVISION

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for furnishing One New Trailer-Mounted Stump Cutting Machine for the Public Works and Transportation Fleet Services Division, to be opened in the office of the City Clerk, 801 11th Street, in the City of Modesto, on January 8, 1996 at 11:00 a.m. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Serpa, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk
A RESOLUTION AUTHORIZING CALL FOR BIDS FOR FURNISHING SEVEN TRAFFIC ENFORCEMENT MOTORCYCLES FOR THE PUBLIC WORKS AND TRANSPORTATION DEPARTMENT FLEET SERVICES DIVISION

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

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for furnishing Seven Traffic Enforcement Motorcycles for the Public Works and Transportation Department Fleet Services Division, to be opened in the office of the City Clerk, 801 11th Street, in the City of Modesto, on January 8, 1996 at 11:00 a.m. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Serpa, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk
A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LOCAL IMPROVEMENT DISTRICT NO. 24

The City Council of the City of Modesto, California, does resolve as follows:

WHEREAS, the City Council of the City of Modesto, California ("Council"), has by previous resolutions, initiated proceedings, declared its intention to form the Local Improvement District No. 24 (herein after "District"); issue bonds; and levy assessments; and approved the Engineer's Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 1000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500.

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer's Report, and these charges are for the purpose of paying for the construction of sanitary sewer improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council so orders the levy and collection of assessments within the District for the 1996/97 fiscal year, and that a certified copy of this resolution and attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 1996/97 County Tax Roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the day of November 26, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa and Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk

APPROVED AS TO SUFFICIENCY:

By: Belinda Duersken, Senior Accountant
A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LOCAL IMPROVEMENT DISTRICT NO. 25

The City Council of the City of Modesto, California, does resolve as follows:

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to form the Local Improvement District No. 25 (herein after “District”); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 1000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500.

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the construction of sanitary sewer improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council so orders the levy and collection of assessments within the District for the 1996/97 fiscal year, and that a certified copy of this resolution and attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 1996/97 County Tax Roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the day of November 26, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

APPROVED AS TO SUFFICIENCY:

By: Belinda Duersken, Senior Accountant
MODESTO CITY COUNCIL
RESOLUTION NO. 96-652

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LOCAL IMPROVEMENT DISTRICT NO. 27

The City Council of the City of Modesto, California, does resolve as follows:

WHEREAS, the City Council of the City of Modesto, California ("Council"), has by previous resolutions, initiated proceedings, declared its intention to form the Local Improvement District No. 27 (hereinafter "District"), issue bonds; and levy assessments; and approved the Engineer's Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 1000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500.

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer's Report, and these charges are for the purpose of paying for the construction of storm drainage improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council so orders the levy and collection of assessments within the District for the 1996/97 fiscal year, and that a certified copy of this resolution and attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 1996/97 County Tax Roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the day of November 26, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

APPROVED AS TO SUFFICIENCY:

By: Belinda Duersken, Senior Accountant

JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-653

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LOCAL IMPROVEMENT DISTRICT NO. 28

The City Council of the City of Modesto, California, does resolve as follows:

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to form the Local Improvement District No. 28 (herein after “District”); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 1000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500.

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the construction of sanitary sewer improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council so orders the levy and collection of assessments within the District for the 1996/97 fiscal year, and that a certified copy of this resolution and attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 1996/97 County Tax Roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the day of November 26, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk

APPROVED AS TO SUFFICIENCY:

By: Belinda Duersken, Senior Accountant
MODESTO CITY COUNCIL
RESOLUTION NO. 96-654

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LOCAL IMPROVEMENT DISTRICT NO. 29

The City Council of the City of Modesto, California, does resolve as follows:

WHEREAS, the City Council of the City of Modesto, California ("Council"), has by previous resolutions, initiated proceedings, declared its intention to form the Local Improvement District No. 29 (herein after "District"); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 1000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500.

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the construction of streets and water system improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council so orders the levy and collection of assessments within the District for the 1996/97 fiscal year, and that a certified copy of this resolution and attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 1996/97 County Tax Roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the day of November 26, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ADAMS, City Clerk

APPROVED AS TO SUFFICIENCY:

By: [Signature]
Belinda Duersken, Senior Accountant
A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LOCAL IMPROVEMENT DISTRICT NO. 6

The City Council of the City of Modesto, California, does resolve as follows:

WHEREAS, the City Council of the City of Modesto, California (“Council”), has by previous resolutions, initiated proceedings, declared its intention to form the Local Improvement District No. 6 (herein after “District”); issue bonds; and levy assessments; and approved the Engineer’s Report that describes the formation, bond issuance and the assessments against parcels of land within the District, pursuant to the provisions of the Municipal Improvement Act of 1913, Part 1 of Division 12 of the Streets and Highways Code of the State of California, commencing with Section 1000, and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California, beginning with Section 8500.

WHEREAS, the charges against the real property in each assessment area are not levied with regard to property values but rather per the method of spread indicated in the Engineer’s Report, and these charges are for the purpose of paying for the construction of street, water system and drainage improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council so orders the levy and collection of assessments within the District for the 1996/97 fiscal year, and that a certified copy of this resolution and attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 1996/97 County Tax Roll.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the day of November 26, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk

APPROVED AS TO SUFFICIENCY:

By: Belinda Duersken, Senior Accountant
MODESTO CITY COUNCIL
RESOLUTION NO. 96-656

A RESOLUTION ALLOCATING EMERGENCY SHELTER GRANT (ESG) FUNDS IN THE AMOUNT OF $20,100 TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY AND IN THE AMOUNT OF $46,900 TO STANCO

WHEREAS, the City of Modesto is a recipient of Emergency Shelter Grant Funds in the amount of $67,000 from the Department of Housing and Urban Development, distributed as part of the McKinney Homeless Assistance Act, and

WHEREAS, Emergency Shelter Grant Funds may be used only for the conversion or rehabilitation of buildings for homeless shelters, for the payment of certain operating and social service expense in relation to homeless shelters, and for homeless prevention activities, and

WHEREAS, the Citizen's Housing and Community Development Committee recommends that $20,100 be allocated to the Housing Authority of Stanislaus County for essential (social) services or homeless prevention, and that $46,900 be allocated to STANCO for the transitional housing program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the allocation of $20,100 to the Housing Authority of Stanislaus County and $46,900 to STANCO is hereby authorized and.

BE IT FURTHER RESOLVED that the execution of said grant agreements by the designated City officials be 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, 1996, by Councilmember McClanahan, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-657

A RESOLUTION APPROVING ALLOCATION OF $492,000 IN FISCAL YEAR 1996 HOME PROGRAM FUNDS TO SUNRISE PARTNERS IN THE AMOUNT OF $412,000, STANCO IN THE AMOUNT OF $32,000, AND TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY IN THE AMOUNT OF $48,000

WHEREAS, proposals for the development of affordable housing projects to be funded with HOME funds were solicited; and

WHEREAS, the Citizens Housing and Community Development Committee considered the applications for HOME funds and recommended the allocations of HOME funds to the City Council; and

WHEREAS, it is recommended that all allocations are subject to certain individual project conditions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the allocation of $492,000 in Fiscal Year 1996 HOME funds to developers of affordable housing in the following amounts is hereby authorized:

$412,000 to Sunrise Partners for the Ashwood Village Project
$32,000 to STANCO for the Transitional Housing Program
$48,000 to the Housing Authority of Stanislaus County for the Brighton Place Youthbuild Project

BE IT FURTHER RESOLVED that the execution of said grant agreements by the designated City officials be 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, 1996, by Councilmember McClanahan, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Fisher

ATTEST: Jean Adams.
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-658

A RESOLUTION REVISING THE CITY'S DOWN PAYMENT
ASSISTANCE PROGRAM TO INCLUDE OWNER SWEAT-
eQUITY AS A PORTION OF THE DOWN PAYMENT
REQUIREMENT.

WHEREAS, in 1994, the City began operating a Down
Payment Assistance Program (DPAP) to help low and moderate income
families purchase new homes in Modesto, and

WHEREAS, homebuyers are assisted through a deferred-
payment loan funded by HOME, Community Development Block Grant,
or the Redevelopment Agency set-aside housing funds, and

WHEREAS, currently, DPAP guidelines are such that
homebuyers are required to contribute from one to three percent
cash toward the down payment, and sweat-equity cannot be counted
as a portion of the down payment, and

WHEREAS, it is often difficult for low-income working
families, who could afford to make a monthly mortgage payment, to
simultaneously pay rent and save for a down payment on a home,
thus forcing them to remain in rental units because they lack the
required cash down payment, and

WHEREAS, other organizations such as Habitat for
Humanity and Self-Help Enterprises have recognized and overcome
this problem by allowing homebuyers to contribute sweat-equity to
meet the down payment requirement, and

WHEREAS, the Council has resolved that providing owner-
occupied housing for low and moderate income families is a high
priority for the City, and

WHEREAS, the City Council and the Redevelopment Agency have allocated DPAP program funds for affordable homes to be developed by non-profit agencies offering sweat-equity programs, and

WHEREAS, allowing sweat-equity to meet down payment requirements will strengthen the City's partnership with local affordable housing providers, and

WHEREAS, home ownership reinforces responsibility and self-reliance and contributes greatly to stability and neighborhood pride, and

WHEREAS, recent changes to HOME program rules allow sweat-equity to be counted toward the 25% City match requirement for every HOME dollar expended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City's Down Payment Assistance Program is hereby revised to allow owner sweat-equity to be counted as a portion of the down payment requirement for home loans.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

( SEAL )

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-659

A RESOLUTION REQUESTING CHANGES TO U.S.
ENVIRONMENTAL PROTECTION AGENCY ("EPA") AND
CALIFORNIA AIR RESOURCES BOARD ("CARB")
POLICIES ASSOCIATED WITH TRANSPORTED
POLLUTION

WHEREAS, certain local California air districts are
heavily impacted by transported pollutants from upwind urban
areas not under their control, and

WHEREAS, under current U.S. Environmental Protection
Agency ("EPA") and California Air Resources Board ("CARB")
policies, transported pollutants from upwind air districts can
affect the attainment status of downwind air districts, in that
downwind air districts can be classified as nonattainment through
no fault of their own or can be "bumped up" in their
nonattainment status, and

WHEREAS, a nonattainment designation or an upgraded
nonattainment status can have a serious economic impact on
business, industry and the public, and

WHEREAS, it is unreasonable to impose the entire burden
of emission reduction upon a downwind air district, where
emissions from within the district are insufficient to cause a
nonattainment status or a "bumped up" nonattainment status in the
absence of the contribution from transported pollutants, and

WHEREAS, it is unreasonable to inflict such a heavy
economic burden upon business, industry and the public in a
downwind affected district where transported pollutants from an

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upwind air district contribute significantly to the pollution inventory in the downwind air district, and

WHEREAS, transported pollutants impose a great impact upon environmental quality and public health in the affected downwind air district, and

WHEREAS, transported pollution from upwind areas should be considered when determining attainment status, and

WHEREAS, the Bay Area has been classified as being in attainment, despite the fact that it is a significant contributor to pollutants in downwind air districts, and

WHEREAS, California law specifically exempts the Bay Area, an upwind contributor of pollutants to several downwind affected air districts, from Enhanced Vehicle Maintenance and Inspection Service, and

WHEREAS, the Bay Area's attainment status relieves it from many of the onerous and burdensome requirements that are imposed upon downwind air districts that are in nonattainment, despite the fact that the Bay Area is an upwind contributor of pollutants to such air districts, and

WHEREAS, it is essential that government regulators recognize and respond to the tremendous inequities that exist under a system that allows an upwind air district to be found in attainment by placing a significant burden of emission reduction upon downwind air districts,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby
finds and determines that state and federal law and policy should be changed to require:

1. Upwind contributors to mitigate for the damage caused to downwind air districts;

2. Upwind contributors to have an enhanced vehicle inspection and maintenance program, regardless of whether the air district is classified as being in attainment;

3. The provision of incentives to farmers, business and industries that engage in operations which provide for a positive benefit to air quality and the environment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-660

A RESOLUTION APPOINTING MEMBERS TO THE GOLF 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 RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Arnie Blank is hereby appointed to the Golf Course Advisory Committee, with a term expiration of January 1, 2000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Serpa, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk
A RESOLUTION APPOINTING MEMBERS TO THE HUMAN RELATIONS COMMISSION

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

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

SECTION 1. Paul Horn is hereby appointed to the Human Relations Commission, with a term expiration on January 1, 2000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Serpa, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-662

A RESOLUTION REAPPOINTING MEMBERS TO THE PLANNING COMMISSION

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

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


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of November, 1996, by Councilmember Serpa, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-663

A RESOLUTION DESIGNATING FIVE CEMETERIES ON SCENIC DRIVE (ACACIA MEMORIAL PARK, 801 SCENIC DRIVE; MODESTO PIONEER CEMETERY, 905 SCENIC DRIVE; MODESTO CEMETERY, 1001 SCENIC DRIVE; ST. STANISLAUS CATHOLIC CEMETERY, 1141 SCENIC DRIVE; AND STANISLAUS COUNTY CEMETERY [AKA POTTER'S FIELD], 1001 SCENIC DRIVE) AS MODESTO LANDMARK PRESERVATION SITES.

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

WHEREAS, a public hearing was held on October 21, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, in which the Landmark Preservation Commission found and recommended in their Resolution No. 96-5, that the five cemeteries on Scenic Drive (Acacia Memorial Park, 801 Scenic Drive; Modesto Pioneer Cemetery, 905 Scenic Drive; Modesto Cemetery, 1001 Scenic Drive; St. Stanislaus Catholic Cemetery, 1141 Scenic Drive; and Stanislaus County Cemetery [aka Potter's Field], 1001 Scenic Drive) are eligible for designation as Landmark Preservation Sites for the following reasons:

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

2. The physical condition is such that preservation and maintenance are economically feasible.

3. The distinguishing characteristics of significance are for the most part original and intact.
4. The existing and proposed use are compatible with the preservation and maintenance of the site.

and

WHEREAS, after a public hearing held on December 3, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council found and determined that the five cemeteries on Scenic Drive (Acacia Memorial Park, 801 Scenic Drive; Modesto Pioneer Cemetery, 905 Scenic Drive; Modesto Cemetery, 1001 Scenic Drive; St. Stanislaus Catholic Cemetery, 1141 Scenic Drive; and Stanislaus County Cemetery [aka Potter's Field], 1001 Scenic Drive) are eligible for designation as Landmark Preservation Sites for the reasons set forth by the Landmark Preservation Commission,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property on Scenic Drive is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the five cemeteries on Scenic Drive (Acacia Memorial Park, 801 Scenic Drive; Modesto Pioneer Cemetery, 905 Scenic Drive; Modesto Cemetery, 1001 Scenic Drive; St. Stanislaus Catholic Cemetery, 1141 Scenic Drive; and Stanislaus County Cemetery [aka Potter's Field], 1001 Scenic Drive) have historical and cultural significance as the City's oldest cemeteries and final resting place of many prominent Modestans and are hereby designated as Landmark Preservation Sites.
BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder’s Office of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the ___ day of December, 1996, by Councilmember Dobbs, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney
### Attachment A
#### The Cemeteries - Location

<table>
<thead>
<tr>
<th>Name and Date Established</th>
<th>Block No., Parcel No. on Map</th>
<th>Address/Phone/Proprietor/Ress</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acacia Memorial Park, formerly Masonic Cemetery (1872)</td>
<td>595, (including corner of Scenic/Bodem, pending); 598; 602, NW corner only</td>
<td>801 Scenic Dr. 522-0452</td>
<td>Richard Engles, proprietor</td>
</tr>
<tr>
<td>Modesto Pioneer Cemetery, formerly Odd Fellows Cemetery (1856)</td>
<td>599</td>
<td>905 Scenic Dr. 522-7736</td>
<td>Glen Richards, proprietor</td>
</tr>
<tr>
<td>Modesto Cemetery, formerly Modesto Citizens Cemetery (1855)</td>
<td>600; 602 north of 599, 600, 601 except NE corner</td>
<td>1004 Scenic Dr. 522-8659</td>
<td>Glen Richards, proprietor</td>
</tr>
<tr>
<td>St. Stanislaus Catholic Cemetery (1870)</td>
<td>601, Parcel 34-05-13</td>
<td>1141 Scenic Dr. 529-3905</td>
<td>Irene Silva, proprietress</td>
</tr>
<tr>
<td>Potters' Field</td>
<td>NE corner 602</td>
<td>Burial records c/o Glen Richards 522-8659</td>
<td></td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 96-664

A RESOLUTION DESIGNATING THE DR. DONALD ROBERTSON HOME AT 211 ELMWOOD COURT AS A MODESTO LANDMARK PRESERVATION SITE. (OWNER: JOHN FICHTENKORT)

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

WHEREAS, a public hearing was held on November 18, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, in which the Landmark Preservation Commission found and recommended in their Resolution No. 96-6, that the Dr. Donald Robertson Home at 211 Elmwood Court is eligible for designation as a Landmark Preservation Site for the following reasons:

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

2. The physical condition is such that preservation, maintenance, and current adaptive uses are economically feasible.

3. The distinguishing characteristics of significance are for the most part original and intact.

4. The existing and proposed use are compatible with the preservation and maintenance of the site.

and

WHEREAS, after a public hearing held on December 3, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council found and determined that the
Dr. Donald Robertson Home at 211 Elmwood Court is eligible for designation as a Landmark Preservation Site for the reasons set forth by the Landmark Preservation Commission,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the property at 211 Elmwood Court is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Dr. Donald Robertson Home at 211 Elmwood Court has architectural significance as a French Normandy single-family residence from the late 1920's. It is in fine condition and is located amongst others of similar vintage. The property has historical significance because the original owner, Dr. Donald Robertson, was the son of Dr. J.C. Robertson, founder of Robertson Hospital, who was the original owner of the adjacent residence at 215 Elmwood Court.

BE IT FURTHER RESOLVED that pursuant to Section 9-10.104(e)(1) of the Modesto Municipal Code, the City Clerk shall record a copy of this resolution with the County Recorder's Office of Stanislaus County.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Fisher, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

APPROVED AS TO DESCRIPTION:

By Community Development Department
Strategic Planning

11/25/96--CA
All that certain real property situated in the County of Stanislaus, State of California, described as follows:

Lot No. 18, and East 7.5 feet of Lot 17, Block 554, Book No. 15 of Maps, in the office of the County Recorder of said county.
MODESTO CITY COUNCIL
RESOLUTION NO. 96-665

A RESOLUTION APPROVING A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT NO. 2) FOR THE DR. DONALD ROBERTSON HOME AT 211 ELMWOOD COURT, LANDMARK SITE NO. 35, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY OF MODESTO. (OWNER: JOHN FICHTENKORT)

WHEREAS, John Fichtenkort, owner of the Dr. Donald Robertson Home at 211 Elmwood Court applied for Landmark Site Designation for this site with Planning Commission recommendation for designation on November 18, 1996, and

WHEREAS, Chapter 10 of Title IX of the Modesto Municipal Code establishes the authority for the Landmark Preservation Committee to recommend and the City Council to approve landmark preservation contracts after benefit of a public hearing, and

WHEREAS, California Government Code Section 50280, et seq., authorizes the City to enter into historical property contracts (Mills Act contracts) with owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance, and

WHEREAS, a Mills Act contract was submitted for the Dr. Donald Robertson Home at 211 Elmwood Court, which met State law and garnered staff support, given a reasonable relationship of past and future estimates of improvement and maintenance to tax savings as a result of contract completion, and
WHEREAS, a public hearing was held by the Landmark Preservation Commission on November 18, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, and

WHEREAS, there being no opposition to the Mills Act Contract No. 2, by Resolution No. 96-7, the Landmark Preservation Commission recommended to the City Council approval of said contract for the Dr. Donald Robertson Home at 211 Elmwood Court, and

WHEREAS, after a public hearing held on December 3, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council found and determined that the Historic Property Preservation Agreement for the Dr. Donald Robertson Home at 211 Elmwood Court, meets the requirements of Government Code Section 50280, et seq., and should be approved,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Historic Property Preservation Agreement (Mills Act Contract No. 2) for the Dr. Donald Robertson Home at 211 Elmwood Court is hereby approved.

BE IT FURTHER RESOLVED that the City Manager of the City of Modesto is hereby authorized to execute said agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk shall cause the agreement to be recorded in the office of the County Recorder of the County of Stanislaus no later than twenty days after the execution of the agreement by the parties.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the ___3rd___ day of ___December___, 1996, by Councilmember ___Fisher___, who moved its adoption, which motion being duly seconded by Councilmember ___Friedman___, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

**ATTEST:** _Jean Adams_
JEAN ADAMS, City Clerk

(SEAL)

**APPROVED AS TO FORM:**
By _Michael D. Milich_, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-666

A RESOLUTION APPROVING THE CLOSURE OF A
PUBLIC ALLEY THAT ENCIRCLES THE APARTMENT
COMPLEX AT 620 PARADISE ROAD.

WHEREAS, a verified application for an alley closure at
620 Paradise Road was filed by Security Mutual Asset Company on
September 3, 1996, to close public access to the alley from both
Paradise Road and Chicago Avenue at the apartment complex at 620
Paradise Road, and

WHEREAS, after a public hearing held on October 21,
1996, in the City Council Chambers, City Hall, 801 11th Street,
Modesto, California, it was found and determined by the Planning
Commission, by its Resolution No. 96-48, that closure of the
public alley at the property requested is required by public
necessity, convenience, and general welfare for the following
reasons:

1. That the proposed closure is in accordance with
   community objectives as set forth in the General
   Plan.

2. That the construction of gates and fences at the
   620 Paradise Road apartment complex will assist in
   the upgrade of security at this location.

3. That the proposed alley closure and fence project
   application is within the scope of the General
   Plan covered by a Master Environmental Impact
   Report (SCH #92052017).

and

WHEREAS, by Resolution No. 96-48, the Planning
Commission recommended to the City Council the closure of the
public alley that encircles the apartment complex located at 620 Paradise Road, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 3, 1996, in the City Council Chambers, City Hall, 801 11th 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 Security Mutual Asset Company to close public access to the alley from both Paradise Road and Chicago Avenue at the apartment complex at 620 Paradise Road should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 96-48 and quoted above, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the proposed public alley closure is hereby approved subject to the following conditions:

1. Fences or walls shall be constructed in accordance with fence standards as set forth by the Municipal Code of the City of Modesto.

2. All gates that front on Paradise Road and Chicago Avenue shall be set back no less than 38 feet and 15 feet respectively from edge of right of way.

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

4. The main entry gates for vehicle access to the alley shall be equipped with dual opening mechanisms. The Police and Fire Departments will maintain an access pin number to gain instant
entry. The occupants and affected utilities shall be equipped with cards, for nonemergency access.

5. "Knox Box" apparatus shall be installed for fire access to the fire lanes off of Paradise Road.

6. The main gate off of Paradise Road must be at least 38' in back of street as shown to allow ample stacking and ease of access for service vehicles.

7. 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. Building Inspection shall route plans to Fire Marshal for final review.

8. The applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's Office on a form available in the Community Development Department.

9. 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 subdivision 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.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember McClanahan, 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: Cogdill, Dobbs, Fisher, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

12/02/96--CA
Thank you for your consideration.

The fee for the survey of the property is $2,500.00. This fee is payable in advance of any work performed in the property. The fee will cover the cost of the survey, plot plan, and any other work required to complete the survey.

I am also very much interested in the developed lots and would be interested in any developments that may be planned for this area.

Sincerely,

[Signature]

I've enclosed a copy of the survey report for your review.

[Receipt]

To All Members of the City Council:

I am writing to request your support for the Home Improvement Center, located at [Address]. The Center offers home repair services and educational workshops to improve the quality of life for residents. We believe that this project will benefit the community by providing a valuable resource for those in need.

Sincerely,

[Name]

Home Improvement Center

Valley Building Supply Center

Valley Distributors, Inc.
July 14, 1998

City of Modesto  
Honorable Mayor & Councilmembers  
801 11th Street  
Modesto, Calif. 95353

To All Modesto City Councilmembers:

I am faxing this letter because I have grave concerns about the implementation policies for Measure M. Currently, the City has sole discretion whether to place a Measure M vote on the ballot. As you are well aware, development involves a number of factors including market opportunity and financing conditions. Timing is often critical to the process and the person or persons developing any given area are dependent on being able to rely on that timing. I am urging that the persons developing a project be given the opportunity to schedule and receive a Measure M vote as well, as long as it falls within a normal election cycle.

I am also very much concerned that no Measure M votes would be scheduled until substantial progress has been made on building out current inventory of potential areas for housing. It is a fact of every community in California that such growth control policies inevitably work toward driving up the land prices of those very areas. This will only add to the problem of maintaining affordability as the housing industry struggles to get back on its feet. It is my request that this language be stricken from the implementation policy.

Thank you for your consideration.

Sincerely,

Bernie Heyne  
Land Acquisition Manager

Cc: file
MODESTO CITY COUNCIL
RESOLUTION NO. 96-667

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): APPROVING THE CLOSURE OF A PUBLIC ALLEY FROM BOTH PARADISE ROAD AND CHICAGO AVENUE AT THE APARTMENT COMPLEX AT 620 PARADISE ROAD. (SECURITY MUTUAL ASSET COMPANY)

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, Security Mutual Asset Company has requested closure of a public alley from both Paradise Road and Chicago Avenue at the apartment complex located at 620 Paradise Road, property located at 620 Paradise Road, in the City of Modesto ("the project"), and

WHEREAS, on September 27, 1996, the City's Community Development Department by Environmental Assessment 96-123 reviewed the proposed project relating to the project, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures or alternatives may be required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and
WHEREAS, on October 21, 1996, the Modesto Planning Commission, after a duly noticed public hearing, recommended to the City Council that said project be approved,

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 project on September 27, 1996, 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 report.

2. The project will have no new additional significant effects on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

3. 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 specific features which are unique to the proposed project that require project specific mitigation measures. All the certified mitigation measures identified in the Master EIR will apply city-wide.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice pursuant to either Section 21108 or 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 ___ day of December, 1996, by Councilmember McClanahan, who moved its adoption, which motion being duly seconded by Councilmember __________, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: __________, City Clerk

APPROVED AS TO FORM:

By ____________________________
MICHAEL D. MILICH, City Attorney
I. PURPOSE

The Master Environmental Impact Report for the Modesto Urban Area General Plan allows for limited environmental review of the Conditional Use Permit (CUP) application. The Final Master EIR (SCH #92052017) was certified by the Modesto City Council on August 15, 1995.

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

II. PROJECT DESCRIPTION

A. Project title: Proposed Alley Closure by Security Mutual Asset Co. to recommend closure of the public alley to provide additional security at 620 Paradise Road.

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

C. Contact person and phone number:
Mr. Vern Stark  521-0587

D. Project Location:
620 Paradise Road

E. Project sponsor: Security Mutual Asset Co.

F. General Plan Designation: RPD - Redevelopment Planning District

G. Current Zoning: R-3

H. Description of Proposed Project: This project is an application to close the alley that surrounds the apartment complex and fence in/out the property to provide an additional level of security.
I. Surrounding land uses: This project is surrounded by single family residential on the south and southwest. To the west is commercial and residential land uses, and to the north is a public park.

J. Other public agencies whose approval is required: MID for electrical realignments

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 alley closure in itself will not present impacts that were not analyzed in the MEIR. All of this will be improved to City standard. This is consistent with the Traffic and Circulation needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are, still valid.

B. Degradation of Air Quality
This project will provide no increase in air degrading development or traffic within the City of Modesto. It will not have 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, still valid.

C. Generation of Noise
This project is adjacent to and surrounded by urban development. The project will not add additional traffic to the neighborhood, and it will not create additional significant effects beyond those identified in the impact analysis. The Existing Conditions, Impacts Analysis, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are, therefore still valid.

D. Loss of Productive Agricultural Land
The project is located on urban and built-up land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. 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, therefore still valid.

E. Increased Demand for Water Supplies
This project which will provide for additional access to the existing commercial site will require no additional water beyond that identified in the
Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11 are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services
This project will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.

G. Loss of Sensitive Wildlife and Plant Habitat
This project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are, therefore, still valid.

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

I. Drainage, Flooding and Water Quality
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

J. Increased Demand for Storm Drainage
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.
K. Increased Demand for Parks and Open Space
This project will not have an effect upon the parks or open space needs in the area. 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, therefore still valid.

L. Increased Demand for Schools
This project will not generate any additional demand upon the local school districts. In addition, the MEIR has determined that the mitigation measures for this impact adequately mitigate the impacts to a "less than significant level." Thus 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, therefore still valid.

M. Increased Demand for Police Services
This proposal has no impact upon the need for additional police services to this area. 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, therefore still valid.

N. Increased Demand for Fire Services
This alley closure proposal has no additional impact upon the need for additional fire services to this area. Fire Station Number 2 is less than one mile away. 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, therefore still valid.

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

P. Generation of Hazardous Materials
This proposal will result in no additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-14) are, therefore 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-11) are, therefore still valid.

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

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS

A. The proposed alley closure application is within the scope of the General Plan covered by a Master Environmental Impact Report (SCH #92052017).

B. The Project will have no new additional significant effect on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

C. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (Section 21157.1).

D. There are not specific features unique to this alley closure and fencing that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply citywide, including this project as appropriate.

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

Signature: [Signature]
Date: 9-27-96
MODESTO CITY COUNCIL
RESOLUTION NO. 96-668

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR
PLANNED DEVELOPMENT ZONE, P-D(519). (D. RICK
CHENEY)

WHEREAS, a verified application for an amendment to
Section 22-3-9 of the Zoning Map was filed by D. Rick Cheney on
August 23, 1996, to reclassify from Professional Office Zone,
P-O, to Planned Development Zone, P-D, to allow an office
condominium, property located on the east side of Coffee Road
between Brighton Avenue and East Orangeburg Avenue, described as
follows:

P-O to P-D(519)

All that certain real property situate in a portion of
the Southwest quarter of the Northwest quarter of
Section 22, Township 3 South, Range 9 East, Mount
Diablo Base and Meridian, in the City of Modesto,
County of Stanislaus, State of California, described as
follows:

Beginning at the Northwest quarter/quarter corner of
said Section 22, also being the intersection of the
centerlines of Coffee Road which bears South 0° 27’ 00"
East and East Orangeburg Avenue which bears North 89°
54’ 00” East as shown on that certain parcel map filed
in the office of the Recorder of Stanislaus County,
California, on January 21, 1974, in Volume 18 of Parcel
Maps, at page 49; thence along the centerline of Coffee
Road, South 0° 27’ 00” East to a point established by
the intersection of said Coffee Road centerline and the
western prolongation of a property line which is
parallel to and 359.20 feet distant from the centerline
of East Orangeburg Avenue and the True Point of
Beginning of this description; thence leaving the
centerline of Coffee Road and along said western
prolongation, North 89° 54’ 00” East 45.00 feet to the
East line of Coffee Road; thence continuing along
aforementioned parallel property line North 89° 54’ 00”
East 390.00 feet to a Western line of Parcel "B" as
shown on the aforementioned parcel map; thence South 0’
27' 00" East 200.00 feet along said West line to a Northern line of said parcel "B"; thence along a Northern line of said parcel "B" and the North line of parcel "A" of said parcel map South 89° 56' 05" West 388.81 feet to the Northwest corner of said parcel "A"; thence along the westerly prolongation of said north line of parcel "A" South 89° 56' 05" West 47.19 feet to the centerline of Coffee Road; thence along said centerline North 0° 27' 00" West 200.00 feet to the point of beginning.

and

WHEREAS, after a public hearing held on October 21, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 96-46, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. That the P-D Zone will allow condominium office development of the property and will contribute to a mixture of uses provided for in the Mixed Use (MU) area designated for this portion of Coffee Road.

2. That the plot plan including conditions of approval will assure a professional office development compatible with the adjacent neighborhood.

3. That development of this property as a professional office condominium development will include provisions to control the number and location of shared driveway approaches together with vehicular accessways in a manner contributing to a positive traffic flow along the Coffee Road frontage of this property.

and

WHEREAS, after a public hearing held on December 3, 1996, in the City Council Chambers, City Hall, 801 11th Street,
Modesto, California, the Council found and determined that the application of D. Rick Cheney 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. 96-46 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. ___3014__-C.S. on the ___3rd___ day of ___December___, 1996, reclassifying the above-described property from Professional Office Zone, P-O, to Planned Development Zone, P-D(519).

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

1. All development shall conform to the plot plan and floor plans titled "Coffee Road Professional Offices, 1316 Coffee Road" as amended in red, stamped approved by the City Council on December 3, 1996.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks and Recreation Department Director. The landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Fences or walls shall be constructed prior to occupancy and shall be as follows:

   a. Six-foot-high wood fence with decorative masonry pilasters at 16 foot on centers along the east and portions of the south property lines as shown on the approved P-D plot plan.
4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Street dedication of five feet to provide a 50-foot, half-width minor arterial consistent with Standard Specifications shall be made prior to the issuance of a building permit or at any time requested by the Public Works and Transportation Director to alleviate a health, safety, or traffic problem in the area.

6. Installation of public sidewalk consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the Public Works and Transportation Director to alleviate a health, safety, or traffic problem in the area.

7. All outdoor lighting shall be shielded from adjacent residential properties as required by the Public Works and Transportation Director.

8. Trash bins shall be kept in enclosures in accordance with the approved plan, and enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community Development Director.

9. The developer shall, in a manner approved by the City Attorney, provide a vehicular accessway for on-site traffic circulation for the benefit of the property to the north, substantially as shown in red on the plot plan.

10. 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.

11. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Public Works and Transportation Director.
12. All signs shall comply with the sign requirements of the P-O Zone.

13. Prior to sale of a condominium unit, a subdivision map shall be recorded.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(519):

The entire construction program shall be accomplished in one phase of construction to begin on or before October 21, 1998, and completion to be not later than October 21, 1999.

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 X 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(519), becomes effective.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

APPROVED AS TO DESCRIPTION:

By Community Development Department
Development Services
MODESTO CITY COUNCIL
RESOLUTION NO. 96-669

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): AMENDING SECTION 22-3-9 OF THE ZONING MAP TO REZONE FROM PROFESSIONAL OFFICE ZONE, P-O, TO PLANNED DEVELOPMENT ZONE, P-D(519), PROPERTY LOCATED ON THE EAST SIDE OF COFFEE ROAD BETWEEN BRIGHTON AVENUE AND EAST ORANGEBURG AVENUE.

(D. RICK CHENEY)

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, D. Rick Cheney has proposed that the zoning designation for the property located on the east side of Coffee Road between Brighton Avenue and East Orangeburg Avenue be amended to rezone from Professional Office Zone, P-O, to Planned Development Zone, P-D(519), property located on the east side of Coffee Road between Brighton Avenue and East Orangeburg Avenue, in the City of Modesto ("the project"), and

WHEREAS, on January 23, 1996, the City’s Community Development Department by Environmental Assessment 96-5 has reviewed the proposed project relating to the project, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures or alternatives may be required,
and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, on October 21, 1996, the Modesto Planning Commission, after a duly noticed public hearing, recommended to the City Council that said project be approved,

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 project on January 23, 1996, 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 report.

2. The project will have no new additional significant effects on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

3. 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 specific features which are unique to the proposed project that require project specific mitigation
measures. All the certified mitigation measures identified in the Master EIR will apply city-wide.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community Development Director is hereby authorized and directed to file a notice pursuant to either Section 21108 or 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 3rd day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTTEST: Jean Adams

(Seal)

APPROVED AS TO FORM

By Michael D. Milich, City Attorney
I. PURPOSE
The Master Environmental Impact Report for the Modesto Urban Area General Plan allows for limited environmental review of the application to rezone property from R-1, Low Density Residential Zone to P-O, Professional Office Zone. the Final Master EIR (SCH #92052017) was certified by the Modesto City Council on August 15, 1995.

This Initial Study in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether the rezoning to P-O may cause any significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan. This Initial Study also provides documentation that the rezoning is described in the Master EIR as being within the scope of the General Plan.

II. PROJECT DESCRIPTION

A. Project title:
Amendment to Section 22-3-9 of the zoning map of the City of Modesto to rezone from R-1, Low Density Residential Zone to P-O, Professional Office Zone.

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

C. Contact person and phone number:
Norm E. Wilson, AIA
609 15th Street
Modesto, CA 95354
(209) 577-0114

D. Project Location:
East side of Coffee Road south of East Orangeburg Avenue, 1310 and 1320 Coffee Road.

E. Project sponsor:
Norman Wilson, AIA
609 15th Street
Modesto, CA 95354
(209) 577-0114
F. General Plan Designation:
(MU) Mixed Use

G. Zoning:
existing R-1
proposed P-O

H. Description of Proposed Project:
This is an application to Amendment Section 22-3-9 of the zoning map of the City of Modesto to rezone from R-1, Low Density Residential Zone to P-O, Professional Office Zone, two parcels containing 1.80 acres located on the east side of Coffee Road south of East Orangeburg Avenue, 1310 and 1320 Coffee Road.

I. Surrounding land uses:
This project consists of two contiguous parcels which are located on the east side of Coffee road 179-feet south of the commercial uses located at East Orangeburg Avenue. These parcels are immediately surround by a commercial child day care center to the south, a convalescent care facility to the east, and residential uses to the north and west.

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. The following is an analysis of how the rezoning from R-1 to P-O conforms with the analysis contained within the Master EIR.

A. Traffic and Circulation
This a rezoning of property located along a minor arterial from R-1 to P-O. The new land use designation will allow office development with plot plan approval. No traffic study will be required as part of this rezoning. However, future office development of the property may require review of a traffic study by the City of Modesto Public Works and Transportation Department. This project is consistent with the Traffic and Circulation needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are, still valid.

B. Degradation of Air Quality
This rezoning will allow eventual development of offices along a portion Coffee Road located within the City of Modesto. It will not have 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, still valid.
C. Generation of Noise
The rezoning of this property will allow eventual Board of Zoning Adjustment review of a professional office development. Potential rezoning of adjacent properties to P-O will also allow office development. The project will not generate additional traffic nor create additional significant effects beyond those identified in the impact analysis. The Existing Conditions, Impacts Analysis, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are, therefore still valid.

D. Loss of Productive Agricultural Land
The property to be rezoned is located on Urban and Built-up land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. 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, therefore still valid.

E. Increased Demand for Water Supplies
The rezoning of the property to P-O will not require additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11 are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services
The rezoning of the property to P-O will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.

G. Loss of Sensitive Wildlife and Plant Habitat
This project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impact Analysis, and the Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are, therefore, still valid.

H. Disturbance of Archaeological and Historic Sites
This rezoning is within a developed area and 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 indicates that it is also outside the Archaeological Resource Study Area, which shows areas that may require additional site specific investigations. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages IV-8-1 through IV-8-21) are, therefore, still valid.

I. Drainage, Flooding and Water Quality
The redevelopment of this property for office use will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

J. Increased Demand for Storm Drainage
The rezoning of this property will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

K. Increased Demand for Parks and Open Space
The rezoning to P-O, Professional Zone will not have an effect upon the parks or open space needs in the area. However, Downey Park is located to the south at Brighton Avenue. 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, therefore still valid.

L. Increased Demand for Schools
This is a rezoning of property for eventual office development and will not have an adverse impact on educational facilities and programs. Thus 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, therefore still valid.

M. Increased Demand for Police Services
This rezoning of property for office uses has a less than significant impact upon the need for additional police services to this area. 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, therefore still valid.

N. Increased Demand for Fire Services
This rezoning of property for office uses has a less than significant impact upon the need for additional fire services to this area. Fire Station Number 5 is less than one quarter mile away. 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, therefore still valid.
O. Generation of Solid Waste
This proposal and subsequent development will not cause the generation of solid waste beyond that which is identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages IV-15-1 through IV-15-10) are, therefore still valid.

P. Generation of Hazardous Materials
This proposal will result in no additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-14) are, therefore still valid.

Q. Landslides and Seismic Activity
This proposal 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
This proposal will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are, therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS
A. The proposed rezoning from R-1 to P-O is within the scope of the General Plan covered by a Master Environmental Impact Report (SCH #92052017) which analyzed potential impacts of rezonings.

B. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (Section 1157.1).

C. All feasible mitigation measures or feasible alternatives set forth in the Meir have been incorporated into this rezoning.

D. There are no specific features unique to the proposed rezoning from R-1 to P-O 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: [signature]
Date: 1-23-96
A RESOLUTION ACCEPTING THE PROJECT TITLED "MELLIS PARK RENOVATION" AS COMPLETE

WHEREAS, a report has been filed by the Director of Public Works & Transportation that the project titled Mellis Park Renovation, has been completed by Barham Inc., in accordance with the contract agreement dated January 16, 1996.

NOW, THEREFORE, BE IT RESOLVED that the Mellis Park Renovation be accepted from said contractor, Barham Inc.; that notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $194,614.48 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 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-671

A RESOLUTION ACCEPTING THE PROJECT TITLED "INTERSECTION IMPROVEMENTS - CLAUS ROAD AT BRIGGSMORE AVENUE AND PARKER ROAD" AS COMPLETE

WHEREAS, a report has been filed by the Director of Public Works & Transportation that the project titled Intersection Improvements - Claus Road at Briggsmore Avenue and Parker Road, has been completed by Ross F. Carroll, Inc., in accordance with the contract agreement dated August 22, 1995.

NOW, THEREFORE, BE IT RESOLVED that the Intersection Improvements - Claus Road at Briggsmore Avenue and Parker Road, be accepted from said contractor, Ross F. Carroll, Inc.; that notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $156,843.05 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 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-672

A RESOLUTION ACCEPTING THE BID OF CENTRAL VISUAL INFORMATION SYSTEMS FOR FURNISHING THE DESIGN-BUILD, ENGINEERING AND COMPUTER NETWORK SYSTEM

WHEREAS, Resolution No. 96-69, adopted by the Council of the City of Modesto on February 20, 1996 approved the specifications for furnishing the design-build, engineering and computer network systems; and

WHEREAS, the bids received for furnishing the design-build, engineering and computer network systems, were opened at 11:15 a.m. on May 29, 1996, and later tabulated by the Finance Director for the consideration of the Council; and

WHEREAS, the Finance Director has recommended that the bid of Central Visual Information Systems for a total amount of $67,050.14 be accepted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bid of Central Visual Information Systems be accepted and the preparation of a formal purchase order by the City's designated officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
A RESOLUTION REJECTING BIDS FOR FURNISHING TWO PORTABLE TRAILER MOUNTED GENERATORS, OPENED IN THE OFFICE OF THE CITY CLERK ON JUNE 17, 1996, AND AUTHORIZE NEW CALL FOR BIDS

WHEREAS, bids received for furnishing two portable trailer mounted generators, were opened on June 17, 1996; and

WHEREAS, during the bid evaluation process, staff saw that the pricing submitted was so widespread that staff recommends bids be rejected and re-evaluation of the specifications and resolicitation for this service be conducted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that bids received for furnishing two portable trailer mounted generators, opened in the office of the City Clerk on June 17, 1996, are hereby rejected.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that new call for bids for furnishing two portable trailer mounted generators will be held at 11:00 a.m. January 8, 1997, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-674

A RESOLUTION WAIVING FORMAL BID PROCEDURES AND AUTHORIZING THE PURCHASE OF 140,000 LBS OF GRANULAR ACTIVATED CARBON (GAC)

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that formal bid procedures for the purchase of 140,000 lbs of Granular Activated Carbon (GAC) is hereby waived.

BE IT FURTHER RESOLVED that purchase of 140,000 lbs of Granular Activated Carbon (GAC) through the City of Fresno contract from Northwestern Carbon for a not to exceed price of $134,196.00 is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-675

A RESOLUTION WAIVING FORMAL BID PROCEDURES AND AUTHORIZING THE PURCHASE OF TEN USED LATE MODEL SEDANS FROM GOLDEN GATE AUTO AUCTION AND/OR BAY CITIES AUTO AUCTION

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that formal bid procedures for the purchase of ten used late model sedans is hereby waived.

BE IT FURTHER RESOLVED that purchase of ten used late model sedans for a not to exceed price of 154,000.00 from Golden Gate Auto Auction and/or Bay Cities Auto Auction is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: {signature}
JEAN ADAMS, City Clerk
A RESOLUTION APPROVING A POLICY ON COMPETITIVE DELIVERY OF CITY SERVICES

WHEREAS, an ad hoc committee of Councilmembers was appointed to review options for competition, outsourcing, and privatization of City services; and

WHEREAS, the committee reviewed materials describing the approaches of other innovative public organizations, and received input from individual City employees, the recognized bargaining units, from local business, and the Modesto Chamber of Commerce; and

WHEREAS, the committee has developed a policy recommendation setting forth the purpose of considering new models of service delivery and establishing guidelines for considering competitive proposals;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto does hereby adopt the policy entitled, "Competitive Delivery of City Services," marked "Exhibit A", a copy of which is attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember McClanahan, who moved its adoption, which motion being duly seconded by Fisher, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature] 
JEAN ADAMS, City Clerk
CITY OF MODESTO

CITY COUNCIL POLICY ON
COMPETITIVE DELIVERY OF CITY SERVICES

Purpose:

Competition is the best means of ensuring that all City services are provided at the highest quality for the lowest reasonable cost. Competition encourages innovation and focuses attention on meeting customer expectations.

Those expectations include demands for improved performance from government at all levels. At the same time, the long-range outlook for the City’s finances suggests that the budget will continue to be constrained. To meet the challenges, the Council supports a systematic approach to evaluating competitive service delivery options.

The Council does not believe that the private sector can effectively provide all City services, nor that the private sector can always do a better job than City employees. Instead, the Council believes that competition with the private sector, and, where feasible, other governmental agencies, is the best guarantee of value for citizens and taxpayers.

Time and again, government employees and managers of City programs have shown that they can adapt and innovate to meet the challenges of changing demands for City services. Employees should be given the training, opportunity, and incentives to compete effectively.

The purpose of this policy statement is to provide general guidelines for both City employees and potential competitors.

Policy:

All City services should be evaluated periodically for opportunities for improvement and for alternative approaches to service delivery. Program managers and employees affected by the review should be given ample opportunity to participate in the review and, when formal competition is called for, City staff are encouraged to submit proposals to compete with those of private vendors or other governmental agencies. The decision to approve an alternative approach will be based on an open and fair process, with the service delivery objectives and decision criteria made clear at the outset.

EXHIBIT A
Periodic Review

In conjunction with submittal of the annual budget, the City Manager should recommend:

- A schedule of service improvement reviews which will be conducted by internal review teams, or by independent management auditors.
- A schedule for consideration of a formal process to solicit competitive proposals for alternative service delivery.

Selection of Services for Public/Private Competition

In deciding which services or functions should be subject to a formal competitive process, the Council will consider the following:

- Ancillary services are preferable to "core" services.
- Stand-alone services are preferable to services that are highly interrelated with other services or functions of the city.
- The experience of other public agencies throughout the country in successfully contracting out the services.
- The ability to establish measurable performance specifications which emphasize outcomes and results.
- The existence of a competitive "market," including interest by at least two private vendors or other agencies.
- Level and growth in City staff compared to staffing by private vendors or other agencies.
- Complexity of transition issues.
- Relative cost of labor and capital, compared to private vendors.
- Feasibility of multi-year agreements to permit competitors to amortize investments.
- Feasibility of "segmenting" the contract so as to provide for side-by-side competition during the term of the contract.
- Restrictions, if any, established by law or contracts.
Role of City Staff in Preparing Proposals

Program managers preparing proposals are encouraged to involve affected employees and all the support functions of the City organization. In general, there should be a minimum of six-month's notice prior to award of a new service contract. Barriers to effective competition should be identified and solutions proposed in the staff proposal. Proposals suggesting changes in work rules and costs established by memoranda of understanding should be reviewed with the recognized employee association.

The City Manager should establish a regular training curriculum for program managers and key employees on how to prepare effective business plans and develop competitive proposals. For especially significant services, the City Manager should consider retaining consultant assistance to help the City staff team prepare its proposal.

Criteria for Evaluating Proposals

Proposals will be evaluated for their effectiveness in meeting the Council's service delivery objectives, which include:

- Cost control
- Service quality
- Reliability
- Income potential

Cost

Competition is the key to efficient, high-quality services. To compare proposals, it is essential that all costs be identified for the initial year of the contract and for the full term. The cost of City proposals should clearly identify those costs which are "differential" and are related to the specific proposal, and those which are "fixed" and are not likely to be eliminated in the event of a private contract. This is especially important in analyzing overhead costs. For City staff proposals, there must be a mechanism to guarantee the bid costs over the term of the contract. In evaluating private proposals, City costs of administration of the contract and costs to continue to provide non-specified tasks will be included. The economic impact of asset sales will be evaluated as part of the cost comparison process.
Proposals will be evaluated for opportunities to manage, or transfer risk, including market risk, financing risk, risk of operations, and environmental risk. Costs of risk management and insurance must be clearly identified.

**Quality**

Proposals will be evaluated on measurable performance standards for service levels, results, and outcomes.

**Reliability**

The background, experience, qualifications, and financial strength of private vendors will be carefully reviewed at an initial stage prior to submittal of proposals.

Proposals will be evaluated for their potential for service disruptions, as well as for transitional work force issues, and ability to quickly replace service delivery in the event of contract termination. A plan for maintenance, repair, or replacement of City assets will be required.

**Income Potential**

Proposals will be evaluated for their potential to increase revenue for the City.

**Review Process**

The City Manager should establish a review process which includes scrutiny of proposals by third-party reviewers and customers.

All staff and Councilmembers who may have any potential conflicts of interest will refrain from participating in any aspect of the process.

**Contract Management**

The City Manager should take steps to ensure proper monitoring of contract performance, including assignment of appropriate trained staff. Contracts should provide for quick response by contractors to identified problems.

Whenever a City staff proposal is selected, the City Manager should annually report on compliance with the proposal terms.
Managing Employee Transitions

During the service review and proposal preparation period, the City Manager should attempt to identify potential vacant positions which could be used to assign employees in the event the City staff proposal is not accepted. Private contractors will be encouraged to offer employment opportunities to employees whose positions would otherwise be eliminated. In the event that layoffs are required, the Council's layoff and benefit policy will apply.

Performance Measurement and Evaluation

Evaluation measures should be built into the contract and contract monitoring process. Alternative service delivery will be evaluated on its service and cost impacts over the term of the agreement. The success of the competition effort will be evaluated by the extent to which the benefits of competition have been captured for taxpayers and users of City services.
A RESOLUTION APPROVING AN AGREEMENT WITH EUGENE J. AND BETTY J. VALLORTIGARA, INDIVIDUALLY AND AS TRUSTEES OF THE VALLORTIGARA FAMILY TRUST; JAY E. VALLORTIGARA; JINEA, JINENE, KENEA, KENJI, JEANETTE, AND KENNETTE YOSHIMURA; AND JON D. AND FAY M. GAIER, INDIVIDUALLY AND AS TRUSTEES OF THE GAIER FAMILY TRUST, CANCELLING THE SITE AGREEMENT AS IT APPLIES TO LOT 8 FOR ENTERPRISE BUSINESS PARK NO. 1, PHASE 1

BE IT RESOLVED by the Council of the City of Modesto that the agreement with Eugene J. and Betty J. Vallortigara, individually and as trustees of the Vallortigara Family Trust; Jay E. Vallortigara; Jinea, Jinene, Kenea, Kenji, Jeanette, and Kennette Yoshimura; and Jon D. and Fay M. Gaier, individually and as trustees of the Gaier Family Trust, cancelling the site agreement, as it applies to Lot 8 for Enterprise Business Park No. 1, Phase 1 be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated City officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-678

A RESOLUTION APPROVING AN AGREEMENT WITH BILL COPPEDGE INC. CANCELLING THE SITE AGREEMENT AS IT APPLIES TO LOT 9 FOR ENTERPRISE BUSINESS PARK NO. 1, PHASE 1

BE IT RESOLVED by the Council of the City of Modesto that the agreement with Bill Coppedge Inc. cancelling the site agreement, as it applies to Lot 9 for Enterprise Business Park No. 1, Phase 1 be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated City officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-679

A RESOLUTION APPROVING AN AGREEMENT WITH TARTARIC MANUFACTURING CORPORATION CANCELLING THE SITE AGREEMENT AS IT APPLIES TO LOT 10 FOR ENTERPRISE BUSINESS PARK NO. 1, PHASE 1

BE IT RESOLVED by the Council of the City of Modesto that the agreement with Tartaric Manufacturing Corporation cancelling the site agreement, as it applies to Lot 10 for Enterprise Business Park No. 1, Phase 1 be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated City officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-680

A RESOLUTION AUTHORIZING THE REFUND OF
TRAFFIC MITIGATION FEES COLLECTED RELATING TO
THE SITE AGREEMENT FOR ENTERPRISE BUSINESS
PARK NO. 1 SUBDIVISION.

WHEREAS, a Vesting Tentative Map for Enterprise
Business Park Subdivision (hereinafter referred to as "Vesting
Map") was approved by the Modesto Planning Commission by
Resolution No. 90-93 adopted on November 19, 1990, which Vesting
Map included 91.7 acres of land zoned as industrial, and

WHEREAS, Conditions 1-a, 1-b and 1-c of Planning
Commission Resolution No. 90-93 required traffic mitigation fees
to be paid prior to the development of said Vesting Map, and

WHEREAS, said Vesting Map was approved to be developed
in six (6) phases, and

WHEREAS, Phase 1 of the Vesting Map included 3 parcels
for a total of 4.833 subdivided acres, which was approved by the
City Council as the final map of Enterprise Business Park No. 1
Subdivision (hereinafter referred to as "Subdivision") by
Resolution No. 90-969, adopted on December 18, 1990, said
Subdivision final map being subsequently recorded in the Office
of the Stanislaus County Recorder on December 20, 1990, and

WHEREAS, as a condition of said Subdivision approval, a
Site Agreement, a copy of which is attached hereto and made a
part hereof by this reference, between the City of Modesto and
"Modesto Industrial Park, Inc.", the owner of the Subdivision,
was approved by the City Council of the City of Modesto by Resolution No. 90-969, adopted on December 18, 1990, and recorded in the Office of the Stanislaus County Recorder on December 20, 1990, and

WHEREAS, said Site Agreement created and established the authority for imposing and charging a traffic mitigation fee for those properties within the Subdivision, which traffic mitigation fees were based on a traffic study completed for the 91.7 acre Vesting Map, and

WHEREAS, the City of Modesto collected traffic mitigation fees pursuant to said Site Agreement in the amount of Seven Thousand, Seven hundred and Seventy-five dollars ($7,775.00) on November 15, 1994 from Viking Freight Systems, Inc. prior to permitting a business expansion into property located within the area of said Vesting Map, said fees being placed in a City Finance Trust Account, and

WHEREAS, subsequent to said Site Agreement recordation, the City Council approved a Master Environmental Impact Report (hereinafter referred to as "Master EIR") which addresses the traffic mitigation measures required for all properties included in the Modesto General Plan, including the property within said Subdivision, and
WHEREAS, said Master EIR requires all new development to comply with the regulations set forth in the City of Modesto Engineering Standard Specifications, with no additional traffic mitigation measures required for standard industrial zones, and

WHEREAS, the Council of the City of Modesto strives to ensure that the development requirements for all land within the City limits be fair and equitable and that the magnitude of fees not favor one parcel over another and not place Modesto in a less competitive position in terms of attracting economic development to the City, and

WHEREAS, in consideration of the above information and concurrent with the adoption of this resolution, the Council adopted separate resolutions approving agreements canceling the Site Agreement for Enterprise Business Park No. 1 and the traffic mitigation fees established thereby,

NOW, THEREFORE, BE IT RESOLVED that, based on the above information, the City Council of the City of Modesto hereby authorizes a refund of the traffic mitigation fees collected pursuant to the Site Agreement in the amount of Seven thousand, Seven hundred and Seventy-five dollars ($7,775.00) from Viking Freight Systems, Inc.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-681

A RESOLUTION AMENDING THE 1996-97 CAPITAL IMPROVEMENT PROGRAM
BUDGET TO ESTABLISH A NEW CIP PROJECT ENTITLED POLICE FACILITY
EXPANSION PROJECT AND APPROPRIATING $90,000 FROM POLICE CAPITAL
FACILITY FEE CONTINGENCY RESERVE

WHEREAS, on October 15, 1996, the City Council accepted a report and conceptually approved
the expansion of the City Police Department facility on its existing site; and

WHEREAS, funding is needed to cover staff costs for development of a Request for Proposals
for Professional Services, for managing and completing the RFP process, for negotiating contracts and
presenting them to Council for approval, and for managing the consultant effort leading to a completed
design and construction of the facility. All of these expenses should be charged against a Capital Project
account, and

WHEREAS, funds are available from the Police Capital Facility Fee Contingency Reserve.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 1996-97 Capital Improvement Program Budget is hereby amended to establish a new CIP project entitled
Police Facility Expansion Project and appropriating $90,000 from Police Capital Facility Fee Contingency Reserve.

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 day of December 3, 1996, by Councilmember Serpa, who moved its adoption, which motion being
duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the
following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN ADAMS, City Clerk

(seal)

APPROVED AS TO SUFFICIENCY:

By: ____________________________
STAN FEATHERS, Budget Officer
MODESTO CITY COUNCIL
RESOLUTION NO. 96-682

A RESOLUTION AUTHORIZING CITY STAFF TO SECURE QUALIFIED PROFESSIONAL ARCHITECTURAL AND CONSTRUCTION MANAGEMENT SERVICES FOR PROPOSALS FOR A POLICE FACILITY EXPANSION PROJECT.

WHEREAS, on October 15, 1996, the City Council accepted a report and conceptually approved the recommendations of a Joint City/County Downtown Government Facility Study, and

WHEREAS, the alternative selected by Council for implementation included the expansion of the City Police Department Facility on its existing site, and

WHEREAS, while the Redevelopment Agency has responsibility for the 10th Street Place project, it is the City's responsibility to proceed with the design and construction of the expanded Police Facility, and

WHEREAS, by a report dated November 21, 1996, from the Public Works and Transportation Director, staff has requested authorization to secure qualified professional architectural and construction management services for the Police Facility Expansion project by developing Request for Proposals for professional services and procuring those services in accordance with normal City procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City staff to secure qualified professional architectural and construction management services for the Police Facility Expansion project by developing

12/05/96
Request for Proposals for professional services and procuring those services in accordance with normal City procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-683

A RESOLUTION APPROVING AN AGREEMENT WITH GALLO GLASS FOR THE DEFERRAL OF STREET IMPROVEMENTS ON MORTON BOULEVARD

BE IT RESOLVED by the Council of the City of Modesto that the agreement with Gallo Glass for the deferral of street improvements on Morton Boulevard be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated City officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by McClanahan, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Friedman

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
A RESOLUTION APPROVING AN AGREEMENT WITH THE YOSEMITE CHAPTER OF THE CALIFORNIA ASSOCIATION OF NURSERYMEN FOR TREE PLANTING ACTIVITIES

BE IT RESOLVED by the Council of the City of Modesto that the agreement with the Yosemite Chapter of the California Association of Nurserymen be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated City officials be authorized.

BE IT FURTHER RESOLVED that annual extensions of the agreement may be approved in writing by the staff liaison for each agency.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None
MODESTO CITY COUNCIL
RESOLUTION NO. 96-685

A RESOLUTION APPROVING THE REQUEST BY KOSO INC., FOR DIRECT CITY ASSISTANCE FOR AN ANNUAL HOLIDAY PARADE IN THE CITY OF MODESTO IN CONJUNCTION WITH THE ANNUAL CELEBRATION OF LIGHTS.

WHEREAS, KOSO, Inc., which operates B-93 FM radio station in Modesto, by letter dated August 27, 1996, has requested Direct City Assistance to hold a Holiday Parade in the City of Modesto in conjunction with the annual Celebration of Lights, and

WHEREAS, the City Council, by Resolution No. 80-1066 as amended by Resolution No. 83-128, adopted a "Policy for Evaluating Requests for Direct City Assistance," and

WHEREAS, the Council deems it appropriate to grant approval for Direct City Assistance to KOSO, Inc., to hold a Holiday Parade in the City of Modesto in conjunction with the annual Celebration of Lights, subject to certain conditions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it does hereby approve the request of KOSO, Inc., to hold an annual Holiday Parade, subject to the following conditions:

1. The City's personnel will erect City's a reviewing stand with canvas top in front of the Court House on "I" Street, close to the cannon. The reviewing stand shall be in place prior to 2:30 p.m. for use on the date of the parade and will remove said reviewing stand thereafter.
2. KOSO, Inc., is granted permission to use a public address system at the reviewing stand for the parade. Said public address system is to be furnished by KOSO, Inc.

3. The parade route each year is subject to approval of the Police Chief and Public Works and Transportation Director.

4. The City Public Works and Transportation Department will supply street sweepers for the parade.

5. The City of Modesto will provide Equestrian Police Officers, Reserve Officers, and Motor Officers to maintain traffic control along the parade route.

6. The City Public Works and Transportation Department will provide barricades to be placed during parade activities on corners and at other appropriate locations as designated by the Police Department.

7. The level of City support as described in 4., 5., and 6. above shall be determined by appropriate City of Modesto staff.

8. KOSO, Inc. will supply portable toilets in the City Parking lot across from the Centre Plaza.

9. KOSO, Inc., shall indemnify, defend and hold harmless the City of Modesto, its officers, agents and employees, from any and all liability, costs, damages or injuries to persons or damage to property, which may arise out of or in any way be connected with the KOSO, Inc., parade.
10. Annually, KOSO, Inc., shall furnish to the City Clerk of City a current and valid certificate of insurance evidencing coverages of general liability insurance as shall protect KOSO, Inc., and its agents and employees from claims for damages for bodily injury and property damage which may arise out of the KOSO, Inc., Holiday Parade. Said insurance certificate shall be subject to the approval of the Risk Manager and shall designate the City of Modesto as an additional insured.

BE IT FURTHER RESOLVED that the City Clerk shall furnish KOSO, Inc., with a copy of this resolution. KOSO, Inc., shall file a written acceptance of this resolution with the City Clerk, and no right shall be conferred hereby until said acceptance is filed.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-686

A RESOLUTION APPROVING THE FINAL MAP OF THE
SYMPHONY PLACE NO. 4 SUBDIVISION OF THE CITY
OF MODESTO.

WHEREAS, Sarjak Enterprises, Inc., a California
Corporation, is possessed of a tract of land situate in the City
of Modesto, County of Stanislaus, consisting of 5.79 acres, known
as Symphony Place No. 4 Subdivision, and

WHEREAS, a tentative map of said tract was approved by
the City Council of the City of Modesto on the 7th day of
December, 1993, 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 Symphony Place No. 4
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,

WHEREAS, all public improvements required by the City
of Modesto have been completed in said tract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the
City of Modesto that said final map be approved; that the
improvements completed in said tract be accepted; that the
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 subdividers have 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 Agreement hereinafter referred to.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdividers 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 3rd day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-687

A RESOLUTION DENYING THE APPEAL OF JOSEPHINE CIPPONERI TO A PLANNING COMMISSION DECISION CONCERNING THE VESTING TENTATIVE SUBDIVISION MAP OF SYMPHONY PARK IN PRECISE PLAN AREA NO. 3 OF THE VILLAGE ONE SPECIFIC PLAN, ON THE SOUTH SIDE OF SYLVAN AVENUE EAST OF OAKDALE ROAD. (REDEV)

WHEREAS, the vesting tentative map of the Symphony Park Subdivision was filed in the office of the Secretary of the Planning Commission on September 17, 1996, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code, and

WHEREAS, Redev Inc., filed a proposal to develop a 101-lot, single-family subdivision on 18.14 acres on the south side of Sylvan Avenue, east of Oakdale Road, and

WHEREAS, a public hearing was held by the Planning Commission on November 18, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission, by its Resolution No. 96-60, approved the Vesting Tentative Map of Symphony Park Subdivision located in Precise Plan Area No. 3 on the south side of Sylvan Avenue and East of Oakdale Road, subject to certain conditions set forth in said Planning Commission Resolution, and

WHEREAS, an appeal to the proposed subdivision design and its impact on Cipponeri’s adjoining property approved by the Planning Commission was filed with the Office of the City Clerk by letter dated November 21, 1996, from Josephine Cipponeri, and
WHEREAS, said appeal was duly noticed and set for a public hearing before the City Council at its regular meeting place in the City Council Chambers in the City Hall, 801 11th Street, Modesto, California, on November 26, 1996, at 4:00 p.m., and

WHEREAS, at said public hearing, a representative for the applicant and the subdivider reported to the Council that a solution for a redesign of the subdivision had been agreed to between the applicant and the subdivider (REDEV), thus, after hearing evidence both oral and documentary, the Council found and determined that said appeal which was filed by Josephine Cipponeri to the Planning Commission’s decision, should be denied and the decision of the Planning Commission should be affirmed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Josephine Cipponeri to the decision of the Planning Commission is hereby denied, and the decision of the Planning Commission is hereby affirmed.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Serpa, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Fisher

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

01/23/97
MODESTO CITY COUNCIL
RESOLUTION NO. 96-688

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS CONSISTENT WITH THE VILLAGE ONE ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: APPROVAL OF PRECISE PLAN AREA NO. 3 PERTAINING TO SYMPHONY PARK SUBDIVISION AND REZONING TO SPECIFIC PLAN OVERLAY, SP-0. (REDEV, INC.)

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

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

WHEREAS, Redev, Inc., has applied for approval of a precise plan, a vesting tentative subdivision map (Symphony Park Subdivision), a zone change from Specific Plan Holding, SP-H, to a Specific Plan Overlay, SP-O, zone, and
WHEREAS, on November 4, 1996, the City's Community Development Department reviewed the proposed project to determine if said project might have a significant effect on the environment, and

WHEREAS, by Environmental Assessment No. 96-137 findings have been made that the proposed project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and

WHEREAS, the Planning Commission by Resolution No. 96-59 adopted on November 18, 1996, and City staff by report dated November 12, 1996, from the Community Development Department, recommended to the City Council approval of Precise Plan Area No. 3 of the Village One Specific Plan as set forth in said Resolution No. 96-59, and an Amendment to Section Map 11-3-9 of the Zoning Map to establish rezoning from Specific Plan Holding, SP-H, to a Specific Plan Overlay, SP-O, zone, located on the south side of Sylvan Avenue East of Oakdale Road, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 26, 1996, at 4:00 p.m., in the City Council Chambers, City Hall, 801 11th Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered Environmental Assessment No. 96-137, entitled "Use of Previous EIR and Findings", for the proposed project, and the Council hereby makes the following findings:
1. That the project is within the scope of the Village One Specific Plan 1990 Program EIR as amended by the Village One Final Supplemental EIR adopted May 24, 1994 (State Clearing House No. 90020181), which adequately describe the project for purposes of CEQA (Section 15168, State CEQA Guidelines).

2. The proposed Precise Plan Area No. 3 poses no new significant changes or environmental impacts that were not discussed in the Program EIR. This is based on recent comments received from responsible agencies reviewing the proposal (Section 15162(a)(1) State CEQA Guidelines).

3. No substantial changes have occurred that will require important revisions in the previous EIR due to the involvement of new significant environmental impacts not covered in the previous EIR. This is based on the inspection of the site, the project description, and on comments received from responsible agencies that reviewed this proposal (Section 15162(a)(2) State CEQA Guidelines).

A copy of said Environmental Assessment No. 96-137, entitled "Use of Previous EIR and Findings", is attached hereto as Exhibit "A", and incorporated herein by reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember McClanahan, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Fisher

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
MICHAEL D. MILICH, City Attorney
I. BACKGROUND

1. Name of Project:
Precise Plan Area No. 3

2. Name, Address and Phone Number of Proponent:
Redev. Inc., 1920 Standiford Avenue, suite 2, Modesto, CA 95350
(209) 577-8294

3. Type of Project:
Precise plan for Precise Plan Area No. 3

4. Location:
Precise Plan Area No. 3 is bordered by Sylvan Ave. on the north,
Precise Plan Areas Nos. 15 and 16 on the south, proposed Village One
Road E on the west and PPA 5 and Road F on the east.

5. Description of Proposed Project:
The applicant seeks Specific Plan approval of PPA No. 3, Amendment of the
Zoning Map from SP-H to SP-O and adoption of the findings that this project
is within the scope of the previous Village One EIR.

References to the EIR and mitigation measures in this document pertain to
the Village One EIR (SCH#90020181) as amended by the Supplemental EIR.
The 1990 Village One Program EIR has been superseded and updated by the
incorporates by reference technical studies and background material from the
1990 Program EIR. The 1990 EIR contained 143 Mitigation Measures. These
measures have been revised by the Supplemental EIR which is now the
project EIR. All 40 Mitigation Measures contained in the Supplemental EIR
have been incorporated into the Specific Plan and Facilities Master Plan
and/or relevant Precise Plans to implement Section 21081.6 of the Public
Resources Code, relating to Mitigation Monitoring. The Public Works and
TRANSPORTATION DEPARTMENT will incorporate the appropriate mitigation measures from the Supplemental EIR.

II. ENVIRONMENTAL IMPACTS

A. EARTH. Will the proposal result in:

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Discussion: The project area does not overlie any major land formation, fault line, sensitive lands, or unique geological features. Earth related impacts are adequately covered on pages 4.7-1 to 4.7-14 of the 1990 Program EIR, and on pages III-105 to III-108 of the Final Supplement to an EIR for the Village One Specific Plan.

B. AIR Will the proposal result in:

Yes  Maybe  No
1. Substantial air emission or deterioration of ambient air quality?  
   Yes [ ]  No [ ]  Maybe [ ]

2. The creation of objectionable odors?  
   Yes [ ]  No [ ]  Maybe [ ]

AIR Will the proposal result in:

3. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally?  
   Yes [ ]  No [ ]  Maybe [ ]

Discussion: The project will have a similar density and intensity of land uses, as analyzed in the DEIR. Therefore, Air Quality impacts will essentially be the same as the existing Specific Plan. Air quality issues are covered on pages 4.5-1 to 4.5-14 of the Program EIR, as well on pages III-45 to III-54 in the Final Supplemental EIR.

Air pollutant emissions from traffic generated by project buildout would contribute to violations of State Ozone, Carbon Monoxide and PM 10 standards in the Modesto Urban Area and San Joaquin Valley air basins. Incorporation of mitigation suggested by the local Air District would reduce impacts (see Mitigation Measures No 2 & 3, Pages II-14 & 15, Final Supplement to an Environmental Impact Report.

Construction related pollutants would be temporarily exposed to receptors. These pollutants would be controlled by City and local Air District regulations (Mitigation Measure No. 40, Page II-56, Final Supplement to an Environmental Impact Report. For these reasons, the previous environmental assessment and corresponding mitigation measures are adequate.

C. WATER Will the proposal result in:

1. Changes in currents, or the course of direction of fresh water movements?  
   Yes [ ]  No [ ]  Maybe [ ]

2. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?  
   Yes [ ]  No [ ]  Maybe [ ]

3. Alterations to the course of flow of flood waters?  
   Yes [ ]  No [ ]  Maybe [ ]

4. Change in the amount of surface water in any water body?  
   Yes [ ]  No [ ]  Maybe [ ]

5. Discharge into surface waters, or in any alteration of surface water quality,
including but not limited to temperature, dissolved oxygen or turbidity?

6. Alteration of the direction or rate of flow of ground waters?

7. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

8. substantial reduction in the amount of public water supply?

9. Exposure of people or property to water related hazards such as flooding?

Discussion: The project will not introduce any new impacts not already covered in the 1990 Program EIR and the 1994 Supplemental EIR. Hydrology has been adequately addressed on pages 4.8-1 to 4.8-18 of the Program EIR, as well as on pages III-109 to III-119 of the Final Supplemental EIR.

The project will not effect the quantity of groundwaters nor will it impact groundwater recharge capability. The project will have no effect on groundwater flows. Because of the Specific Plan's requirement for the project to connect to a positive stormwater system, the project will have no impact on groundwater quality (Mitigation Measure No 28, Page II-44, Final Supplement to an Environmental Impact Report).

For this reason, the analysis of impacts and its corresponding mitigation measures on water resources are adequate.

D. PLANT LIFE Will the proposal result in:  

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<th></th>
<th>Yes</th>
<th>Maybe</th>
<th>No</th>
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<tr>
<td>1. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?</td>
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<td>2. Reduction of the numbers of any unique, rare or endangered species of plants?</td>
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<td>3. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?</td>
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4. Reduction in acreage of any agricultural crop? Yes

Discussion: There are no unique, rare, or endangered species of plants present on the subject site based on a site inspection and utilization of the State and Federal Listing of Rare and Endangered Plants (Natural Diversity Data Base). Since the geographic area encompassed by the Plan has not been revised, the project will not introduce any new plant related impacts that were not addressed in the Program EIR on pages 4.9-1 to 4.9-16 as well as on pages III-68 to III-79 of the Final Supplemental EIR. For this reason, the previous analysis on the impacts to plant life and its corresponding mitigation measures on plant life are adequate.

E. ANIMAL LIFE Will the proposal result in:

Yes  Maybe  No

1. Change in the diversity of species, or numbers of any species of animals (including birds, reptiles, fish and shellfish, benthic organisms or insects)?

   No

Discussion: The project site is devoid of any unique, rare, or endangered species of animals based upon a site inspection and utilization of the Federal and State Listing of Endangered Species (Natural Diversity Data Base). Impacts to animals were addressed on pages 4.9-1 to 4.9-16 of the Program EIR and on pages III-68 to III-79 of the Final Supplemental EIR. The proposed project will not introduce any new impacts that were not addressed in the Program EIR. For this reason, the previous analysis on impacts to animal life and its corresponding mitigation measures to biological resources are adequate.

F. NOISE Will the proposal result in significant:

Yes  Maybe  No

1. Increases in existing noise levels?

   Yes

2. Exposure of people to severe noise levels?
3. Will the project require noise abatement measures?  
   
4. Will the project generate or be subject to vibration that would tend to disturb a person of normal sensitivity?  

Discussion:

Noise Impacts were addressed on pages 4.6-1 to 4.6-21 of the Program EIR and on pages III-55 to III-67 of the Final Supplemental EIR. The proposed project will not introduce new noise related impacts that were not addressed in the EIR. Construction would not cause a significant increase in noise generation. There would be no significant increase in transportation-related noise from trains or autos.

There would be no impact from exposure of people to severe noise levels during either operation or construction (Mitigation Measure No. 22, Page II-38, Final Supplement to an Environmental Impact Report.

For this reason, the previous analysis and its corresponding mitigation measures on noise are adequate.

G. LIGHT AND GLARE Would on or off-site residents Yes Maybe No be subject to light or glare that would disturb those residents?  

Discussion:

Construction of project would not create any significant light or glare impacts. Although the installation of lighting is planned for streets, City Engineering Division staff routinely review lighting plans to ensure electroliers are not aimed directly at residences. For this reason, the previous analysis and its corresponding mitigation measures on noise are adequate.

H. LAND USE Will the proposal result in a substantial alteration of the present or planned land use of an area?  

Discussion: The project is within the range of uses analyzed in the Program EIR for the Precise Plan Area. It is consistent with all the intensity that was programmed for this area within the Program EIR, and the Village One Specific Plan. Land use impacts were addressed on pages 4.1-1 to 4.1-25 in the Program EIR and on pages III-80-III-94 of the Final Supplemental EIR. The proposed project will not introduce new land use related impacts not addressed in the EIR. Thus, the previous analysis on impacts to land uses is adequate.
I. NATURAL RESOURCES  Will the proposal result in an increase in the rate of use of any natural resource?  Yes  Maybe  No

Discussion: The proposed Precise Plan for the Specific Plan will not introduce new natural resource impacts not addressed in the Program EIR. Impacts to natural resources have been discussed in the Air Quality, Vegetation and Wildlife, Geology and Soils and Hydrology sections of both of the Program EIR and Supplemental EIR. Thus, the previous analysis on impacts to natural resources is adequate.

J. RISK OF UPSET  Will the proposal involve:

1. A risk of an explosion or the release of hazardous substances (including but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?  Yes  Maybe  No

2. Possible interference with an emergency response plan or an emergency evacuation plan?  Yes  Maybe  No

Discussion: The project is not located as to be exposed to a risk of an explosion or release of hazardous substances, based upon a review of the site, the project and the surrounding land uses. Therefore, there is no potential for a significant impact to the environment due to hazardous risks.

The proposal will not interfere with any emergency response plan or any emergency evacuation plan based on input from the fire and police departments. Therefore, there is no potential for a significant impact on the environment due to any emergency plan.

K. POPULATION  Will the proposal:

Alter the location, distribution, density, or growth rate of the human population of an area not considered in the EIR?  Yes  Maybe  No

Discussion: The concerns inherent in population growth impacts have been addressed on pages 4.2-1 to 4.2-17 of the Program EIR as well as on pages III-95 to III-99 of the final Supplemental EIR. The proposed project will not introduce any new
population impacts not analyzed in the EIR, because the minimum and maximum number of units at build-out has not increased. Therefore, the previous population growth impact analysis is adequate.

L. HOUSING Will the proposal:  

| Affect existing Housing, or create a demand for additional housing that was not considered in the EIR? | Yes | Maybe | No |

Discussion: Any environmental problems associated with this project related to housing have been addressed on pages 4-2-1 to 4-2-17 of the Program EIR as well as on pages III-95 to III-99 of the Final Supplemental EIR. The project would yield a total residential program within the range analyzed in the Program EIR for the Village One Specific Plan (Project Characteristics, Page 3-4, Draft EIR, 1990, incorporated by reference, Page II-2 Supplemental EIR, 1994). Thus, the previous impacts on housing associated with this project have been adequately analyzed.

M. TRANSPORTATION/CIRCULATION Will the proposal result in significant:

| 1. Generation of substantial additional vehicular movement? | Yes | Maybe | No |
| 2. Effects on existing parking facilities, or demand for new parking? | Yes | Maybe | No |
| 3. Substantial impact upon existing transportation systems? | Yes | Maybe | No |
| 4. Alterations to present patterns of circulation or movement of people and/or goods? | Yes | Maybe | No |
| 5. Alterations to rail or air traffic? | Yes | Maybe | No |
| 6. Increase in traffic hazards to motor vehicles, bicyclists, and pedestrians? | Yes | Maybe | No |

Discussion: Any impacts related to transportation and circulation have been addressed on pages 4.4-1 to 4.4-42 in the Program EIR, as well as on pages III-40 to III-44 of the Final Supplemental EIR. This project is totally consistent with the traffic analysis for the Village One Specific Plan EIR. Furthermore, the Final Supplemental EIR found that any additional impacts resulting from the project can be mitigated to a less than Significant level (Environmental Effects, Page II-9, Final Supplemental EIR). Mitigation measures 6 through 20 of the Final Supplemental
EIR pertain to Transportation and circulation impacts. The project specific mitigation measures will be applied as determined by the Public Works and Transportation staff. Therefore, the previous analysis on the impacts by the proposed amendment on transportation and circulation is adequate.

N. PUBLIC SERVICES Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas

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<tr>
<td>1. Fire protection?</td>
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<td>2. Police Protection?</td>
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<td>3. Schools?</td>
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<td>4. Parks or other recreational facilities?</td>
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<td>5. Maintenance of public facilities, including roads?</td>
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<td>6. Other governmental services?</td>
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Discussion:

Construction of the project will not have a significant impact on Fire Protection (Mitigation Measure No. 30, Page II-46, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan).

Construction of the project will not have a significant impact on Police protection (Mitigation Measure No. 31, Page II-47, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan).

Construction of the project will not have a significant impact on Schools (Mitigation Measures No. 36 & 37, Pages II-52 & II-53, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan).

Construction of the project will not result in any increase in demand for recreational facilities. The proposed uses are of similar intensity to uses contained in the current Specific Plan which provides open space and recreational facilities to meet the projected needs (Parks, Page II-20, Village One Specific Plan).

Construction of the project will not have a significant impact on maintenance of public facilities (Public Facilities Financing Measures, Page IV-3, Village One Specific Plan).

Impacts to other government services, such as County Courts, Welfare etc. would be less than significant because a City Capital Facilities, and a County Public Facilities Fee is collected at the building permit to assist those services.
O. UTILITIES AND ENERGY  Will the proposal Result in a need for new systems, or substantial alterations to the following utilities:

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<th>Yes</th>
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<tr>
<td>1. Power or Natural gas?</td>
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<td>✓</td>
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<td>2. Communications systems?</td>
<td></td>
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<td>3. Water?</td>
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<td>✓</td>
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<td>4. Sewer and septic tanks?</td>
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<td>5. Storm water drainage?</td>
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<td>6. Solid waste disposal?</td>
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<td>7. Substantial amounts of fuel or energy?</td>
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Discussion:

The Modesto Irrigation District and the Pacific Gas & Electric Company have indicated they will be able to serve the Village One area which includes the project.

Pacific Bell Telephone Company and Post Newsweek Cable Company have indicated they can serve the Village One area.

The City of Modesto's water distribution lines will be extended to serve the project (Mitigation Measure No. 32, Page II-48, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan.

The City of Modesto's sewer lines will be extended to serve the project site (Mitigation Measure No. 34, Page II-50, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan.

The City of Modesto will require the installation of Storm water drainage facilities to serve the site (Mitigation Measure No. 27, Page II-43, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan. The project will be served by the City/County Waste-to-Energy facility (Public Services, Pages III-125 & 126, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan.

P. HUMAN HEALTH  Will the proposal result in:  Yes  Maybe  No

1. Creation of any health hazard or potential
health hazard (excluding mental health)?  

2. Exposure of people to potential health hazards?

Discussion: The proposed project will not change development patterns in any way which would expose people to any health hazards. The pattern of development is entirely consistent with what was proposed as part of the Specific Plan. The project will resemble residential development that is characteristic with the rest of the city. Thus, the project will not have an impact on human health due to health hazards.

Q. AESTHETICS  
Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?

Discussion:

The proposed project sufficiently resembles the design characteristics that were anticipated in the current specific plan. The site and surrounding topography are essentially flat, so construction of the project will have no impact on scenic views or vistas (Urban Design & Visual Quality, Page III-102, Final Supplement to an Environmental Impact Report for the Proposed Village One Specific Plan).

R. CULTURAL RESOURCES

1. Will the proposal result in the alteration of or the destruction of a prehistoric or historic archaeological site?

2. Will the proposal result in adverse physical or aesthetic effect to a prehistoric or historic building, structure, or object?

3. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?

4. Will the proposal restrict existing religious or sacred uses within the potential impact area?

Discussion: Research performed by the Central California Archeological Information Center at California State University Stanislaus regarding potential Cultural Resources impacts is referenced in the Response to Comments in the
Program EIR on pages 4-1, response no. 4.3. The research did not produce any finding for any historical, ethnographic and archaeological resources. The proposed project would not introduce any new cultural resource related impacts, therefore, no Cultural Resources impacts would occur.

S. MANDATORY FINDINGS OF SIGNIFICANCE  

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<tr>
<th></th>
<th>Yes</th>
<th>Maybe</th>
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<tr>
<td>1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal or eliminate important examples of the major periods of California history or prehistory?</td>
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<td>2. Does the project have the potential to achieve short term, to the disadvantage of long-term, environmental goals?</td>
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<td>3. does the project have impact which are individually limited, but cumulatively considerable?</td>
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<td>4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</td>
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<td>✓</td>
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T. RECOMMENDED CONDITIONS OF APPROVAL

U. MITIGATION MEASURES

The scheduling, and monitoring for performance of Mitigation Measures listed in the EIR that pertain to this proposal shall be accomplished by the Public Works and Transportation Department.
On the basis of this initial evaluation, the following findings were made:

1. The project is within the scope of the Village One project EIR (Program EIR as amended by the Village One Supplemental EIR adopted May 24, 1994 - State Clearing House # 90020181) adequately describes the project for purposes of CEQA (Section 15168, State CEQA Guidelines).

2. The proposed Precise Plan poses no new significant changes or environmental impacts that were not discussed in the Program EIR. This is based on recent comments received from responsible agencies reviewing the proposal (Section 15162 (a)(1) State CEQA Guidelines).

3. No substantial changes have occurred that will require important revisions in the previous EIR due to the involvement of new significant environmental impacts not covered in the previous EIR. This is based on the inspection of the site, and the project description. (Section 15162 (a)(2) State CEQA Guidelines).

Signature: John D. Wagner
Date: November 4, 1996
MODESTO CITY COUNCIL  
RESOLUTION NO. 96-689  

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR  
PLANNED DEVELOPMENT ZONE, P-D(516). (SAVE  
MART SUPERMARKETS AND I.C.I.)  

WHEREAS, a verified application for an amendment to  
Section 22-3-9 of the Zoning Map was filed by Save Mart  
Supermarkets and I.C.I. on July 8, 1996, to reclassify from Low  
Density Residential Zone, R-1, to Planned Development Zone, P-D,  
to allow a commercial shopping center, property located on a  
portion of the County Center No. 3 site at the northwest corner  
of Scenic Drive and Oakdale Road, described as follows:  

R-1 to P-D(516)  

ALL that certain real property being a portion of the  
Southeast quarter of Section 22, Township 3 South,  
Range 9 East, Mount Diablo Meridian, City of Modesto,  
County of Stanislaus, State of California, being more  
particularly described as follows:  

BEGINNING at the centerline-centerline intersection of  
Oakdale Road and Scenic Drive, with said point lying on  
the East line of said Section 22 and being marked by a  
2 inch iron pipe with brass cap as shown on Stanislaus  
County Survey No. 1638; thence South 80° 11' 39" West  
along the centerline of said Scenic Drive, a distance  
of 718.09 feet; thence leaving said centerline and  
proceeding North 00° 42' 00" West, a distance of 1034.09  
feet; thence North 89° 57' 00" East, a distance of 707.40  
feet to a point on the above mentioned centerline of  
Oakdale Road with said point also lying on the east  
line of said Section 22; thence South 00° 48' 21" East  
along last said lines, a distance of 912.42 feet to the  
POINT OF BEGINNING.  

SUBJECT TO all easements and/or rights-of-way of  
record.  

Containing 15.82 acres, more or less.  

and
WHEREAS, after a public hearing held on September 9, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 96-41, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed P-D Zone conforms to the General Plan and the Modesto Redevelopment Area Master Plan which anticipates a community-sized shopping center at this major/minor arterial intersection.

2. The proposed P-D Zone will serve the best interests of the general public by providing goods and services and at the same time providing compatibility with the low-density residential area to the west and southwest.

and

WHEREAS, after a public hearing held on December 16, 1996, in the City Council Chambers, City Hall, 801 11th Street, Modesto, California, the Council found and determined that the application of Save Mart Supermarkets and I.C.I. 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. 96-41 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3017-C.S. on the 16th day of December, 1996, reclassifying the above-described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(516).
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. QUALIFIED DEVELOPMENT. That the proposed development shall be considered a "Category A Qualified Development" for purposes of Capital Facilities Fees.

SECTION 2. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(516), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and floor plans titled "Plot Plan and Off-Site Improvement Obligations - I.C.I./Save Mart Development, Modesto, California" as amended in red, stamped approved by the City Council on December 16, 1996.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks and Recreation Director. Screen landscaping shall be retained and augmented as necessary along the entire west property line. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Fences or walls shall be constructed prior to occupancy and shall be as follows:
   a. Eight-foot-high (8’) solid decorative masonry wall along the entire west property line out to within 15 feet of Scenic Drive.

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

5. The following street right-of-way dedication and improvements are traffic impact mitigation measures and shall be provided prior to issuance of a building permit and prior to occupancy respectively, or when requested by the Public Works and Transportation Director to alleviate a health, safety, or traffic problem in the area:
a. The developer shall dedicate right-of-way for public streets on Scenic Drive and Oakdale Road in accordance with the approved Off-Site Improvement Obligations Plan.

b. The developer shall provide street improvements in accordance with engineered plans to be prepared by the applicants' consultants and approved by the Public Works and Transportation Director, such improvements to be in accordance with the approved Off-Site Improvement Obligations Plan and limited to those items identified thereon as developer's responsibility.

All required street right-of-way dedications for improvement obligations by the City of Modesto on both Oakdale Road and Scenic Drive, shall be made prior to December 16, 1999. In the event that these dedications are not made within the three years, the City shall be absolved of its entire share of these street improvement responsibilities and the applicant/developer shall be required to pay the entire costs of the required street improvements.

6. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a registered civil engineer and approved by the Public Works and Transportation Director. Improvements shall be constructed in accordance with the approved plans.

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

8. All outdoor lighting shall be shielded from adjacent residential properties as required by the Public Works and Transportation Director.

9. Trash bins shall be kept in enclosures in accordance with the approved plan, and enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community Development Director.

10. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Inspection all fire hydrants as required
a. The developer shall dedicate right-of-way for public streets on Scenic Drive and Oakdale Road in accordance with the approved Off-Site Improvement Obligations Plan.

b. The developer shall provide street improvements in accordance with engineered plans to be prepared by the applicants' consultants and approved by the Public Works and Transportation Director, such improvements to be in accordance with the approved Off-Site Improvement Obligations Plan and limited to those items identified therein as developer's responsibility.

All required street right-of-way dedications for improvement obligations by the City of Modesto on both Oakdale Road and Scenic Drive, shall be made prior to December 16, 1997. In the event that these dedications are not made within the three years, the City shall be absolved of its entire share of these street improvement responsibilities and the applicant/developer shall be required to pay the entire costs of the required street improvements.

6. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a registered civil engineer and approved by the Public Works and Transportation Director. Improvements shall be constructed in accordance with the approved plans.

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

8. All outdoor lighting shall be shielded from adjacent residential properties as required by the Public Works and Transportation Director.

9. Trash bins shall be kept in enclosures in accordance with the approved plan, and enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community Development Director.

10. 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.

11. The supermarket may be open to the public 24 hours a day, seven days a week and all other businesses may be open to the public only between the hours of 7:00 a.m. and 10:00 p.m. seven days a week, unless a use permit for each business seeking additional hours is obtained from the Board of Zoning Adjustment.

12. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Public Works and Transportation Director.

13. The loading dock area on the north and west sides of the shopping center may not be used for outside storage of any type of material.

14. Any activity in the loading dock areas, including the parking of trucks, shall be conducted only between the hours of 6:00 a.m. and 10:00 p.m. On the conditions that the retailer has constructed a fully enclosed receiving area, has a recessed truck dock a minimum of four feet below grade and with a four-foot sound wall along the loading dock area, instructs all drivers to turn off engines while unloading, and provided the loading area is set back a minimum of 47 feet from a residential property line, in which case, there shall be no hours limitations for such loading/unloading activity.

15. Two free-standing shopping center identification signs shall be permitted, one each on the Scenic Drive and Oakdale Road frontages. These signs shall not exceed 72 square feet in area and 20 feet in height. All other signs in the shopping center shall comply with the sign requirements of the C-3 Zone.

16. No signs shall be permitted above eight feet in height on the west face of the major buildings.

17. The following are air quality impact mitigation measures:
a. The developer shall provide direct pedestrian access to main entrances of all buildings from existing or potential public transit stops and the sidewalk. Such access shall include but not be limited to paved walkways, ramps, or stairways.

b. The developer shall provide bicycle racks or enclosures with space for at least 20 bicycles.

c. The developer shall provide an easement for future bus shelters as requested by the City of Modesto and the transit providers.

18. 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 P-D Zone 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.

SECTION 3. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(516):

The entire construction program be accomplished in one phase construction to begin on or before December 16, 2002, and completion to be not later than December 16, 2004.

SECTION 4. 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 5. 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 X of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 6. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the
above-described property to Planned Development Zone, P-D(516), becomes effective.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Serpa, 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: Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney

APPROVED AS TO DESCRIPTION:

By Community Development Department Development Services
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY A MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 92052017): AMENDING SECTION 22-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(516), PROPERTY LOCATED ON A PORTION OF THE COUNTY CENTER NO. 3 SITE AT THE NORTHWEST CORNER OF SCENIC DRIVE AND OAKDALE ROAD. (SAVE MART SUPERMARKETS AND I.C.I.)

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, Save Mart Supermarkets and I.C.I. has proposed that the zoning designation for the property located on a portion of the County Center No. 3 site at the northwest corner of Scenic Drive and Oakdale Road be amended to rezone from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(516), property located on a portion of the County Center No. 3 site at the northwest corner of Scenic Drive and Oakdale Road, in the City of Modesto ("the project"), and

WHEREAS, on August 12, 1996, the City's Community Development Department by Environmental Assessment 96-93 has reviewed the proposed project relating to the project, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or
additional mitigation measures or alternatives may be required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, on September 9, 1996, the Modesto Planning Commission, after a duly noticed public hearing, recommended to the City Council that said project be approved,

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 project on August 12, 1996, 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 report.

2. The project will have no new additional significant effects on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

3. 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 specific features which are unique to the proposed project that require project specific mitigation
measures. All the certified mitigation measures identified in
the Master EIR will apply city-wide.

BE IT FURTHER RESOLVED by the Council of the City of
Modesto that the Community Development Director is hereby
authorized and directed to file a notice pursuant to either
Section 21108 or Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a Special
meeting of the Council of the City of Modesto held on the 16th
day of December, 1996, by Councilmember Serpa, 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: Dobbs, Fisher, Friedman, McClanahan,
Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: Jean Adams
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

MICHAEL D. MILICH, City Attorney
I. PURPOSE

The Master Environmental Impact Report for the Modesto Urban Area General Plan allows for limited environmental review of the P-D Zone change. The Final Master EIR (SCH #92052017) was certified by the Modesto City Council on August 15, 1995.

This Initial Study in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan. This Initial Study also provides documentation that the project is considered in the Master EIR as being with in scope of the General Plan.

II. PROJECT DESCRIPTION

A. Project title: Application of Save Mart Supermarkets and ICI, Attn: Dan Wajkowski to rezone from R-1 to P-D for a neighborhood shopping center, the County Center No. 3 site located at the north-west corner of Oakdale Rd. and Scenic Drive

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

C. Contact person and phone number:
Jim Watt, Dir. of Real Estate, SaveMart Supermarkets, 1800 Standiford Ave., Modesto, Ca 95352-4278 (209) 574-6200

D. Project Location:
North-West corner of Oakdale Rd. and Scenic Drive

E. Project sponsor:
SaveMart and ICI

F. General Plan Designation: Redevelopment Planning District

G. Current Zoning:
R-1, Low-Density Residential Zone

H. Description of Proposed Project: This project is a Rezone application to amend the zoning map from R-1 to P-D (Planned Development) to allow for the development of a neighborhood shopping center.
I. Surrounding land uses: This project is surrounded by single family residential on the south and west, remaining County facilities to the north, and commercial development to the east.

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 project will provide approximately 138,000 square feet of commercial building area. The rezoning in itself will not present impacts that were not analyzed in the METR. In addition, a traffic mitigation study is being prepared for this project. All of this will be improved to City standard. This is consistent with the Traffic and Circulation needs section of the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages IV-1-1 through IV-1-37) are still valid.

B. Degradation of Air Quality
This project will provide infill commercial development within the City of Modesto. It will not have 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 METR for Degradation of Air Quality (pages IV-2-1 through IV-2-25) are still valid.

C. Generation of Noise
This project is adjacent to and surrounded by urban development. Although the project will add additional traffic to the neighborhood, it will not create additional significant effects beyond those identified in the impact analysis. As a standard noise mitigation / compatibility treatment, there will be a solid masonry wall constructed along the east line of the alley adjoining to the west. The Existing Conditions, Impacts Analysis, and the Mitigation Measures listed in the MEIR for Generation of Noise (pages IV-3-1 through IV-3-33) are therefore still valid.

D. Loss of Productive Agricultural Land
The project is located on Urban and Built-up land as shown on Figure 4-1 in the Loss of Productive Agricultural Land section of the MEIR. The
project is already a fully developed governmental site and there will be no loss of agricultural land 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, therefore still valid.

E. Increased Demand for Water Supplies
This project which will provide for additional commercial development, which will require no additional water beyond that identified in the Increased Demand for Water Supplies section of the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages IV-5-1 through IV-5-11) are, therefore, still valid.

F. Increased Demand for Sanitary Sewer Services
This project will create no additional demand for sewer capacity not identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages IV-6-1 through IV-6-9) are therefore still valid.

G. Loss of Sensitive Wildlife and Plant Habitat
This project will not impact sensitive wildlife or any plant habitat above and beyond that which was identified in the Loss of Sensitive Wildlife and Plant Habitat section of the MEIR. The Existing Conditions, Impacts Analysis, and the Mitigation Measures listed in this section of the MEIR (pages IV-7-1 through IV-7-30) are, therefore, still valid.

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

I. Drainage, Flooding and Water Quality
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.
J. Increased Demand for Storm Drainage
The development of this project will not present any new impacts that have not already been addressed in the MEIR. The mitigation measures will not reduce the impacts of increased runoff within the baseline developed area to a less than significant level. 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, therefore still valid.

K. Increased Demand for Parks and Open Space
This project will not have an effect upon the parks or open space needs in the area. 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, therefore still valid.

L. Increased Demand for Schools
This project will not generate any additional demand upon the local school districts. In addition, the MEIR has determined that the mitigation measures for this impact adequately mitigate the impacts to a "less than significant level." Thus 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, therefore still valid.

M. Increased Demand for Police Services
This proposal has a less than significant impact upon the need for additional police services to this area. 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, therefore still valid.

N. Increased Demand for Fire Services
This project proposal has a less than significant impact upon the need for additional fire services to this area. Fire Station Number 1 is less than one mile away. 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, therefore still valid.

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

P. Generation of Hazardous Materials
This proposal will result in no additional hazardous materials generated beyond those identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages IV-16-1 through IV-16-14) are, therefore 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
This proposal will result in less than significant additional demands for energy, as identified in the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages IV-18-1 through IV-18-6) are, therefore still valid. Mitigation measures identified for air quality and traffic would also help to mitigate energy impacts.

IV CONCLUSIONS/DETERMINATIONS OF FINDINGS
A. The proposed P-O zoning application is within the scope of the General Plan covered by a Master Environmental Impact Report (SCH #92052017).

B. The Project will have no new additional significant effect on the environment not identified in the Master EIR, and no new or additional mitigation measures are required.

C. No new environmental document nor findings pursuant to Section 21081 shall be required by the California Environmental Quality Act (Section 21157.1).

D. There are not specific features unique to this zone change to P-D that require project specific mitigation measures. All certified mitigation measures identified in the MEIR will apply citywide, including this project as appropriate.

E. This initial study provides substantial evidence to support findings "A, B, C, and D" above.
Signature: Robert Carmell  Date: 8-12-96

EA RESOLUTION

1 Attorney
1 CDD - Const. Admin.
\frac{1}{3} CDD - George Osner
A RESOLUTION APPROVING A SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO GARBAGE COMPANY INC. FOR THE COLLECTION OF SOLID WASTE, INCLUDING GARBAGE, INDUSTRIAL GARBAGE, CONTAINERIZED GREEN WASTE, COMMINGLED GARBAGE/RECYCLABLES, RECYCLABLE MATERIALS AND SALVAGEABLE WASTE

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the service agreement between the City of Modesto and Modesto Garbage Company Inc. for the collection of solid waste, including garbage, industrial garbage, containerized green waste, commingled garbage/recyclables, recyclable materials and salvageable waste be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement for services by the designated city officials be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Serpa, Mayor Lang
NOES: Councilmembers: Cogdill, Friedman
ABSENT: Councilmembers: McClanahan

ATTEST: [Signature]
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-692

A RESOLUTION APPROVING A SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND GILTON SOLID WASTE MANAGEMENT INC. FOR THE COLLECTION OF SOLID WASTE, INCLUDING GARBAGE, INDUSTRIAL GARBAGE, CONTAINERIZED GREEN WASTE, COMMINGLED GARBAGE/RECYCLABLES, RECYCLABLE MATERIALS AND SALVAGEABLE WASTE

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the service agreement between the City of Modesto and Gilton Solid Waste Management Inc. for the collection of solid waste, including garbage, industrial garbage, containerized green waste, commingled garbage/recyclables, recyclable materials and salvageable waste be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said service agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Serpa, Mayor Lang
NOES: Councilmembers: Cogdill, Friedman
ABSENT: Councilmembers: McClanahan

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-693

A RESOLUTION ACCEPTING THE BID OF BARHAM INC. FOR THE PROJECT TITLED "AMERICAN LEGION HALL DECK RENOVATION"

WHEREAS, the bids received for American Legion Hall Deck Renovation were opened at 11:00 a.m. on December 3, 1996, and later tabulated by the Public Works and Transportation Director for the consideration of the Council; and

WHEREAS, the Public Works and Transportation Director has recommended that the bid of $63,331.88 from Barham Inc. be accepted as the lowest responsible bid.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the bid of $63,331.88 from Barham Inc. for the American Legion Hall Deck Renovation be accepted and the execution of a contract for the completion of the project by the City's designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-694

A RESOLUTION AMENDING THE 1996-97 BUDGET TO APPROPRIATE FUNDS IN THE AMOUNT OF $79,000 TO ESTABLISH A NEW CIP PROJECT TO REBUILD AND REFURBISH THE LEGION HALL DECK

WHEREAS, funds are budgeted in the TRRP operating budget for engineering services, labor, materials and supplies to re-construct portions of the Legion Hall deck; however, the degree of deterioration was more extensive than anticipated and will require a contractor to replace portions of the main structural system; and

WHEREAS, the low bid for this project was $63,331.88, with an additional $15,199.65 for construction administration and contingencies, bringing the total cost of the project to $78,531.53.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 1996-97 Capital Improvement Program Budget is hereby amended to establish a new CIP project to rebuild and refurbish the Legion Hall deck and funds will be transferred as shown below:

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</thead>
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<tr>
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</tr>
<tr>
<td>#010-310-3112-0140</td>
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</tr>
</tbody>
</table>

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 day of December 16, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk

APPROVED AS TO SUFFICIENCY:

By: STAN FEATHERS, Budget Officer
MODESTO CITY COUNCIL
RESOLUTION NO. 96-695

A RESOLUTION ACCEPTING THE PROJECT TITLED WIDEN CARPENTER ROAD FROM TORRID TO BLUE GUM AVENUE AS COMPLETE

WHEREAS, a report has been filed by the Director of Public Works & Transportation that the project titled Widen Carpenter Road from Torrid to Blue Gum Avenue, has been completed by Tiechert Construction, in accordance with the contract agreement dated September 26, 1996.

NOW, THEREFORE, BE IT RESOLVED that the widening Carpenter Road from Torrid to Blue Gum Avenue be accepted from said contractor, Teichert Construction; that notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $159,349.41 as provided in the contract, be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-696

A RESOLUTION ACCEPTING THE PROJECT TITLED STORM DRAIN ON SUNRISE AVENUE BETWEEN TOKAY AVENUE AND THE CAVIL DRAIN AS COMPLETE

WHEREAS, a report has been filed by the Director of Public Works & Transportation that the project titled storm drain on Sunrise Avenue between Tokay Avenue and the Cavil Drain, has been completed by Rolfe Construction, in accordance with the contract agreement dated June 18, 1996.

NOW, THEREFORE, BE IT RESOLVED that the storm drain on Sunrise Avenue between Tokay Avenue and the Cavil Drain be accepted from said contractor, Rolfe Construction; that notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $50,387.40 as provided in the contract, be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
A RESOLUTION ACCEPTING THE PROJECT TITLED DOWNEY AND DAVIS PARK TENNIS COURT LIGHTING AS COMPLETE

WHEREAS, a report has been filed by the Director of Public Works & Transportation that the project titled Downey and Davis Park Tennis Court Lighting, has been completed by Collins Electrical Company Inc., in accordance with the contract agreement dated August 15, 1995.

NOW, THEREFORE, BE IT RESOLVED that the Downey and Davis Park Tennis Court Lighting be accepted from said contractor, Collins Electrical Company Inc.; that notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $189,288.00 as provided in the contract, be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________________
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-698

A RESOLUTION ACCEPTING THE PROJECT TITLED RECONSTRUCTION OF THOUSAND OAKS LIFT STATION AS COMPLETE

WHEREAS, a report has been filed by the Director of Public Works & Transportation that the project titled Reconstruction of Thousand Oaks Lift Station, has been completed by GSE Construction, in accordance with the contract agreement dated September 26, 1994.

NOW, THEREFORE, BE IT RESOLVED that the Reconstruction of Thousand Oaks Lift Station be accepted from said contractor, GSE Construction; that notice of completion be filed with the Recorder of Stanislaus County and that payment of amounts due in the amount of $1,892,863.65 as provided in the contract, be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-699

A RESOLUTION WAIVING FORMAL BID PROCEDURES AND AUTHORIZING THE PURCHASE OF ONE INFILCO CLIMBER SCREEN FROM MISCO

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that formal bid procedures for the purchase of one Infilco Climber Screen from MISCO is hereby waived.

BE IT FURTHER RESOLVED that purchase of one Infilco Climber Screen from MISCO for a not to exceed price of $21,206.56.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JÉAN ADAMS, City Clerk
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO A’s PROFESSIONAL BASEBALL CLUB FOR USE OF JOHN THURMAN FIELD

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and the Modesto A’s Professional Baseball Club for use of John Thurman Field be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES:  Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

ATTEST:  
JEAN ADAMS, City Clerk
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO A’S PROFESSIONAL BASEBALL CLUB FOR THE CITY TO PROVIDE MAINTENANCE FOR GAME/PRACTICE RELATED ACTIVITIES

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and the Modesto A’s Professional Baseball Club for the City to provide maintenance for game/practice related activities be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang
NOES: Councilmembers: Cogdill, McClanahan, Serpa
ABSENT: Councilmembers: None

ATTEST: 
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-702

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND FRED ANDERSON FOR COST OVERRUNS ASSOCIATED WITH THE RENOVATION OF JOHN THURMAN FIELD

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Fred Anderson for cost overruns associated with the renovation of John Thurman Field be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES: Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

ATTEST: _Jean Adams_
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-703

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND L.D. ASTORINO & ASSOCIATES LTD. FOR CONCEPTUAL SITE PLAN DESIGN AND SPECIFICATIONS, AND PROJECT COST ESTIMATES FOR THE RENOVATION OF JOHN THURMAN FIELD

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and L.D. Astorino & Associates for conceptual site plan design and specifications, and project cost estimates for the renovation of John Thurman Field be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang
NOES: Councilmembers: Cogdill, McClanahan, Serpa
ABSENT: Councilmembers: None

ATTEST: [Signature]
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-704

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND L.D. ASTORINO & ASSOCIATES LTD. FOR CONSTRUCTION MANAGEMENT OF THE RENOVATION OF JOHN THURMAN FIELD

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and L.D. Astorino & Associates for construction management of the renovation of John Thurman Field be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang
NOES: Councilmembers: Cogdill, McClanahan, Serpa
ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-705

A RESOLUTION APPROVING A FIELD IMPROVEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND ACME CONSTRUCTION FOR RENOVATION AND IMPROVEMENTS AT JOHN THURMAN FIELD

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the field improvement agreement between the City of Modesto and Acme Construction for renovation and improvements at Thurman Field be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang
NOES: Councilmembers: Cogdill, McClanahan, Serpa
ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 96-706  

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE FUTURE "PRIME CONTRACTOR" AGREEMENTS (DEMOLITION, LANDSCAPING, BASEBALL FIELD MODIFICATIONS, FIELD LIGHTING AND GRANDSTAND SEATING) RELATING TO THE JOHN THURMAN FIELD RENOVATION PROJECT  

WHEREAS on December 16, 1996 the Council of the City of Modesto approved the John Thurman Field renovation project; and  

WHEREAS authorizing the City Manager to sign future "Prime Contractor" agreements will assist with the timely completion of the project.  

NOW, THEREFORE, BE IT RESOLVED that the execution of said agreements by the City Manager be authorized.  

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Lang, was upon roll call carried and the resolution adopted by the following vote:  

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang  

NOES: Councilmembers: Cogdill, McClanahan, Serpa  

ABSENT: Councilmembers: None  

ATTEST: Jean Adams, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-707

A RESOLUTION DECLARING THE BLEACHERS AT JOHN THURMAN FIELD SURPLUS PROPERTY, AUTHORIZING THE DONATION OF SAID BLEACHERS TO MODESTO CITY SCHOOLS, AND AUTHORIZING THE PURCHASING OFFICER TO SELL OR DISPOSE OF OTHER UNUSABLE MATERIALS.

WHEREAS, the Parks and Recreation Department of the City of Modesto has declared that the bleachers at John Thurman Field have become surplus property to the City's needs as a result of the renovations of John Thurman Field, and

WHEREAS, Modesto City Schools is in need of bleachers for school athletic programs and has offered to remove the bleachers at its expense and pay the City $1.00 for the donated bleachers, and

WHEREAS, it has been recommended by Parks and Recreation Department personnel that said bleachers should be donated to Modesto City Schools, and

WHEREAS, if it is determined that the bleachers are needed for the John Thurman Field renovation project this action will be rescinded, and

WHEREAS, the Council of the City of Modesto desires to donate said surplus bleachers, as recommended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the bleachers at John Thurman Field have become surplus property to the City’s needs, and the Council hereby authorizes the donation of said bleachers to Modesto City Schools.
BE IT FURTHER RESOLVED that if said bleachers are needed for the John Thurman Field renovation project this action will be rescinded.

BE IT FURTHER RESOLVED that the Purchasing Officer is hereby authorized to sell or otherwise dispose of other materials that are determined to be unusable during the course of the renovation project, subject to the determination of the Parks and Recreation Director.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Mayor Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES: Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
A RESOLUTION AMENDING THE 1996-97 CAPITAL IMPROVEMENT PROGRAM TO ESTABLISH AND APPROPRIATE A NEW CIP, JOHN THURMAN FIELD RENOVATION, IN FUND 130, SPECIAL FUND FOR CAPITAL OUTLAYS

WHEREAS, on June 25, 1996, the City Council directed the City Manager to initiate steps leading to the rehabilitation of John Thurman Field and to negotiate agreements with the Modesto A’s for long term use of the field for professional baseball; and

WHEREAS, a new CIP project needs to be established to allow for the City to provide its $3 million share of the costs for renovation and improvement to the stadium.

WHEREAS, City funds will only be available after completion of capital market borrowing and proceeds from the bonds will be placed in a Capital Improvement Project in Fund 130, Special Fund for Capital Outlays.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a new CIP project, John Thurman Field Renovation, is hereby established in Fund 130, Special Fund for Capital Outlays is hereby amended to as shown below:

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<thead>
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<th>Description</th>
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<th>Amount</th>
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<td>CIP:</td>
<td>#130-310-H838</td>
<td>$3,000,000</td>
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</tbody>
</table>

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 day of December 16, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Mayor Lang, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES: Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

ATTEST: ________________________________
JEAN ADAMS, City Clerk

APPROVED AS TO SUFFICIENCY:
By: ________________________________
STAN FEATHERS, Budget Officer
MODESTO CITY COUNCIL
RESOLUTION NO. 96-709

A RESOLUTION AMENDING THE 1996-97 BUDGET TO ESTIMATE $44,334 IN NEW REVENUE AND APPROPRIATE $44,334 IN NEW EXPENDITURES IN ORGANIZATION 3115, JOHN THURMAN FIELD

WHEREAS, on June 25, 1996, the City Council directed the City Manager to initiate steps leading to the rehabilitation of John Thurman Field and to negotiate agreements with the Modesto A’s for long term use of the field for professional baseball; and

WHEREAS, the current operating budget for Organization 3115, John Thurman Field, provides for $91,250 in expenses and $44,880 in revenue. The new lease agreement with the Modesto A’s provides for lease payments of $75,000 per season and maintenance reimbursement of $69,348 per season which are to be paid on the 15th of May, June, July and August.

WHEREAS, the revenue estimate for Organization 3115, Object 1319, John Thurman Field Franchise, needs to be increased by $44,334; with revenues from other rentals remaining unchanged.

WHEREAS, operating expenses for John Thurman Field are currently budgeted at $91,250; however, in order for the City to meet the obligations of the new agreements, additional expenses of $44,334 are anticipated and should be appropriated to Organization 3115.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 1996-97 Annual Budget is hereby amended estimating revenue of $44,334 into Account #010-310-3115 and appropriating new expenditures from Account #010-310-3115-1319.

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 day of December 16, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Mayor Lang, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES: Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk

(seal)

APPROVED AS TO SUFFICIENCY:
By: STAN FEATHERS, Budget Officer
RESOLUTION NO. 96-710

A RESOLUTION APPROVING, AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED $3,900,000 LEASE REVENUE BONDS, SERIES 1996 (JOHN THURMAN FIELD RENOVATION PROJECT) BY THE MODESTO PUBLIC FINANCE AUTHORITY AND DIRECTING EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS AND CERTAIN RELATED DOCUMENTS, AUTHORIZING AND DIRECTING EXECUTION OF A CONTRACT OF PURCHASE, APPROVING THE FORM AND AUTHORIZING DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND CONTINUING DISCLOSURE AGREEMENT, AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

WHEREAS, the City of Modesto (the "City") is a charter city and a municipal corporation organized and existing under the laws of the State of California; and

WHEREAS, the Modesto Public Financing Authority (the "Authority") is authorized under the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 (commencing with Section 6584) of the California Government Code, as amended (the "Act"), to lease and/or purchase real property and to sell at public or negotiated sale Authority bonds secured in whole or in part by the Obligations of a Local Agency (as defined under the Act), including the City; and

WHEREAS, the Authority is authorized under the Act to provide financing for Public Capital Improvements and other costs by entering into Lease/Purchase Agreements (all as defined in the Act) with Local Agencies; and

WHEREAS, the City is a Local Agency under the Act and, working together with the Authority, is proposing to proceed with a lease financing to finance the costs associated with the renovations to the John Thurman Field (the "Project") as more fully described on Exhibit B of the Lease/Purchase Agreement (the "Lease/Purchase Agreement"), dated as of December 1, 1996, between the City and the Authority; and

WHEREAS, the Authority desires to issue, sell and deliver its Lease Revenue Bonds, Series 1996 (John Thurman Field Renovation Project), in the aggregate principal amount not to exceed $3,900,000 to finance the Project and to enter into a certain Lease/Purchase Agreement, all under and in accordance with the Constitution and laws of the State of California, including the Act; and
WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, it is hereby resolved, as follows:

Section 1. The below-enumerated documents be and are hereby approved, and the City Manager or the Finance Director is hereby authorized and directed to execute said documents, with such changes, insertions and omissions as may be approved by such official, and the City Clerk is hereby authorized and directed to attest to such official’s signature:

(a) a form of Site and Facilities Lease (the "Site and Facilities Lease"), by and between the City and the Authority, pursuant to which the City will lease certain real property to the Authority;

(b) a form of Lease/Purchase Agreement (the "Lease Agreement"), by and between the Authority, as lessor, and the City, as lessee, pursuant to which the City will lease-back the real property and the improvements thereon, provided (i) the term of the Lease Agreement does not exceed twenty-one (21) years, and (ii) the maximum lease payments made by the City under the Lease Agreement in any twelve-month period, beginning on November 2 and ending on the succeeding November 1, shall not exceed $400,000 (the "Maximum Annual Lease Payment"); and

(c) a form of Continuing Disclosure Agreement, by and between the City and First Trust of California, National Association, as Dissemination Agent thereto.

Section 2. The form of preliminary Official Statement describing the Bonds herewith submitted to the Authority is hereby approved and adopted as the Official Statement describing the Bonds, with such additions, corrections and revisions as may be determined to be necessary or desirable by the Chairperson or Treasurer. The Chairperson or Treasurer is hereby authorized to cause the distribution of a preliminary Official Statement deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934, as amended (the "Rule"), and to sign a certificate to that effect. The Chairperson or the Treasurer is further hereby authorized and directed to sign the final Official Statement. The Underwriter is hereby authorized and directed to cause to be printed and mailed to prospective purchasers of the Bonds copies of the preliminary Official Statement in substantially the form of the preliminary Official Statement approved and adopted hereby, as supplemented, corrected or revised with the approval of the Chairperson or Treasurer.

Section 3. A Contract of Purchase by and among Lehman Brothers (the "Underwriter"), the Authority and the City relating to the purchase by the Underwriter of the Bonds, be and is hereby approved, and the City Manager or the Finance Director is hereby authorized and
directed to execute said agreement, with such changes, insertions and omissions as may be approved by such official, so long as the interest rate with respect to the Bonds will not produce annual lease payments in excess of the Maximum Annual Lease Payment and so long as the principal amount of the Bonds will not exceed $3,900,000 and so long as the Underwriter’s compensation shall not exceed $50,000 and the original issue discount shall not exceed one and one-half percent (1.5%) of the principal amount of the Bonds.

Section 4. The City Manager, the Finance Director, the City Clerk and all other appropriate officials of the City are hereby authorized and directed, jointly and severally, to do any and all things (including the purchase of a municipal bond insurance policy and/or surety bond for the debt service reserve fund under the Indenture if, upon the advice of the City’s financial advisor, the purchase of such insurance policy or surety bond is financially advantageous to the City) and to execute and deliver any and all documents which they deem necessary or advisable in order to consummate the issuance, sale and delivery of the Bonds and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby.

Section 5. This Resolution shall take effect upon its adoption by this City Council.

* * * * *

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Mayor Lang, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES: Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

ATTEST: ____________________________

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By ____________________________

MICHAEL D. MILICH, City Attorney
I, Jean Adams, City Clerk of the City of Modesto, do hereby certify that the foregoing Resolution No. 96-710, was introduced and adopted at a special meeting provide by law, of the City Council of the City of Modesto held on the 16th day of December, 1996, by the following vote of the members thereof:

AYES: Councilmembers: Dobbs, Fisher, Friedman, Mayor Lang

NOES: Councilmembers: Cogdill, McClanahan, Serpa

ABSENT: Councilmembers: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Modesto this 8th day of January, 1997.

Jean Adams
JEAN ADAMS, CITY CLERK

(SEAL)

I, Jean Adams, City Clerk of the City of Modesto, do hereby certify that the foregoing is the original of Resolution No. 96-710 duly passed and adopted by the Modesto City Council on the December 16, 1996.

Jean Adams
JEAN ADAMS, CITY CLERK
MODESTO CITY COUNCIL
RESOLUTION NO. 96-711

A RESOLUTION APPROVING DEVELOPMENT OF A LOCAL
TELECOMMUNICATIONS ORDINANCE AND BUSINESS
PLAN FOR THE CITY OF MODESTO.

WHEREAS, in February, 1996, the U.S. Congress passed
hallmark legislation known as the Telecommunications Act of 1996,
and

WHEREAS, said bill effectively deregulated the
telecommunications industry, and has served to spur intense
competition including long distance and local exchange telephone
companies, cable television companies, wireless telephone and
data companies, and other firms providing voice, video and data
transmission services, and

WHEREAS, said new legislation limits local authority to
impose franchises on certain telecommunications providers, but
allows appropriate local control to regulate and coordinate
activities in the public rights-of-way as well as certain
activities on private property, and

WHEREAS, to ensure that the City of Modesto has the
necessary regulations in place to protect the community’s rights
and interests, City staff has recommended that a
telemcommunications ordinance be developed and adopted, and

WHEREAS, since the City and County of Stanislaus have
the responsibility and interest to ensure that residents and
businesses receive quality and cost-effective telecommunications
services, and the irrigation districts have a business interest
in utilizing their facilities to provide telecommunications services, City staff has also recommended that the City of Modesto initiate efforts to develop a telecommunications partnership with the County of Stanislaus and the Modesto and Turlock Irrigation Districts, and

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

1. That the development of a local telecommunications ordinance and business plan for the City of Modesto as recommended by City staff is approved.

2. That the pursuit of a regional telecommunications partnership agreement with the County of Stanislaus, Modesto Irrigation District, and the Turlock Irrigation District is approved.

3. That City staff is authorized to negotiate agreements for telecommunications professional services not to exceed $50,000, said agreements to be submitted for consideration and approval by the City Council.

4. That, by a companion resolution, the General Fund Budget shall be amended to provide the necessary funding.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Dobbs, 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: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa and Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney
A RESOLUTION AMENDING THE 1996-97 ANNUAL BUDGET TO APPROPRIATE $50,000 FROM THE CONTINGENCY RESERVE FUND TO ACCOUNT #010-040-0401-0235 FOR PROFESSIONAL SERVICES IN CONJUNCTION WITH A TELECOMMUNICATIONS PARTNERSHIP

WHEREAS, the Telecommunications Act of 1996 deregulated the telecommunications industry and has spurred intense competition amongst telecommunications companies;

WHEREAS, staff is recommending that the City of Modesto initiate efforts to develop a telecommunications partnership among the four local agencies (Modesto Irrigation District, Turlock Irrigation District, the City of Modesto and County of Stanislaus), which will do a better job of planning, coordinating, and developing area telecommunications services that are in the best interest to the public; and

WHEREAS, staff will need professional assistance in evaluating the technical and business aspects of our telecommunications service options.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that 1996-97 Annual Budget be hereby amended to appropriate $50,000 from the contingency reserve fund to Account #010-040-0401-0235 for professional services in conjunction with a County-wide telecommunications partnership.

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 day of December 16, 1996, by Councilmember Dobbs, who moved its adoption, which motion being duly seconded by Councilmember Fisher, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO SUFFICIENCY:

By: 

STAN FEATHERS, Budget Officer

JEAN ADAMS, City Clerk
A RESOLUTION AMENDING THE 1996-97 ANNUAL BUDGET TO CREATE THE NORTH BEYER SUBTRUNK PROJECT AND FUNDS TO BE APPROPRIATED FROM THE SEWER RESERVES FUND ACCOUNT #621-800-8000-8003

WHEREAS, the remnant neighborhood known as North Beyer is proceeding toward development and the immediate need for subtrunks for this area was not anticipated at the time of budget adoption. The model homes are scheduled to be complete by April of 1997; the area is annexed and the specific plan adopted; and

WHEREAS, funds are available from the Sewer Fund, in reserves set aside for expansion and rehabilitation, with the total cost to be $1,005,860.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 1996-97 Annual Budget be hereby amended to create the North Beyer Subtrunk Project for $1,005,860, with funds being appropriated from the Sewer Reserves Fund Account #621-800-8000-8003.

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 day of December 16, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ADAMS, City Clerk

(seal)

APPROVED AS TO SUFFICIENCY:

By: STAN FEATHERS, Budget Officer
A RESOLUTION APPROVING AN AGREEMENT FOR SERVICES BETWEEN THE CITY OF MODESTO AND MID-VALLEY ENGINEERING FOR THE DESIGN OF THE NORTH BEYER SUBTRUNK

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement for services between the City of Modesto and Mid-Valley Engineering for the design of the North Beyer Subtrunk be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement for services by the designated city officials be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
RESOLUTION NO. 96-715

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS

WHEREAS, City of Modesto (the "City") is a chartered city and municipal corporation organized and existing under the Constitution and laws of the State of California; and

WHEREAS, the City has paid, beginning no earlier than October 17, 1996, and will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition, construction and equipping of certain capital improvements in connection with its wastewater system (the "Project"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the City Council of the City (the "Council") has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds");

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL AS FOLLOWS:

Section 1. The Council hereby declares the City's intent to reimburse the City with the proceeds of the Bonds for the Expenditures with respect to the Project made on and after October 17, 1996, which date is no more than 60 days prior to the date hereof. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Project is $40,000,000.
Section 4. The City will make a reimbursement allocation, which is a written allocation by the City that evidences the City's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect upon its adoption by the City Council.

* * *
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By MICHAEL D. MILICH, City Attorney
EXHIBIT A

DESCRIPTION OF PROJECT

The project consists of the acquisition, construction and equipping of certain capital improvements to the City's wastewater system and related costs and facilities.
MODESTO CITY COUNCIL
RESOLUTION NO. 96-716

A RESOLUTION APPROVING AN ALCOHOL AND DRUG TESTING POLICY AND PROCEDURE

WHEREAS, the Omnibus Transportation Employee Testing Act of 1991 provided for the prevention and testing for alcohol misuse and drug use for operators of commercial motor vehicles; and

WHEREAS, final Federal Regulations were approved on February 15, 1994, mandating the establishment of a testing program by the City, effective January 1, 1995; and

WHEREAS, on December 13, 1994 the Council of the City of Modesto approved the original Alcohol and Drug Testing Policy and Procedure; and

WHEREAS, the City of Modesto Alcohol and Drug Testing Policy and Procedure is governed by both the Federal Highway Administration (FHA) and the Federal Transit Administration (FTA); and

WHEREAS, as a result of a recent audit, there is a need to update the policy and procedure to reflect changes in its administration that have been developed over the course of the last two years.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the Alcohol and Drug Testing Policy and Procedure attached hereto and made a part hereof be, and it is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams, City Clerk
City of Modesto

ALCOHOL & DRUG TESTING
POLICY & PROCEDURE

Effective: January 1, 1995
Amended: December 13, 1996

Revised 12/13/1996
# ALCOHOL & DRUG TESTING POLICY AND PROCEDURE

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Reasonable Suspicion Test Memorandum
U.S. Department of Transportation (DOT) Breath Alcohol Testing Form
Fact Sheets
Employee Acknowledgment Form
ALCOHOL & DRUG TESTING POLICY AND PROCEDURE

1. PURPOSE:

It is the purpose of this Policy and Procedure to implement the provisions of the Omnibus Transportation Employee Testing Act of 1991 and any amendments thereto, effective January 1, 1995. This policy and procedure is adjunct to the City of Modesto's Alcohol and Drug Abuse Policy, dated August 22, 1991.

2. DEFINITIONS:

Accident means an occurrence involving a commercial motor vehicle operating on a public road which results in:

(1) A fatality;

(2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(3) One or more motor vehicles incurs disabling damage as a result of the accident requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT) means a person trained to proficiently conduct alcohol testing utilizing an evidential breath testing device.

Commercial motor vehicle means motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle -

(1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

(2) has a gross vehicle weight rating or 26,001 or more pounds; or
(3) is designed to transport 16 or more passengers, including the driver; or

(4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Material Regulations (49 CFR part 172, subpart F).

**Confirmation test** For alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (CG/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

**Department of Transportation (DOT)** means the Federal DOT

**Evidential breath testing (EBT) device** means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHSTA's "Conforming Products List of Evidential Breath Measurement Devices"(CPL).

**Medical Review Officer (MRO)** means a licensed physician responsible for receiving laboratory results generated by the City's controlled substance testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**On-duty time** means:

(1) All time, while in a paid status, working or waiting to work;

(2) all time inspecting, servicing, or conditioning, or maintaining any commercial motor vehicle, revenue service vehicle or equipment used in revenue service at any time;
(3) all driving time driving any commercial motor or revenue service vehicle;

(4) all time, other than driving time, in or upon any commercial motor vehicle;

(5) all time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) all time spent performing the driver requirements relating to accidents;

(7) all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle; or;

(8) all time controlling dispatch or movement of a revenue service vehicle or equipment used in a revenue service vehicle; or,

(89) all time carrying a firearm for security purposes.

**Performing a safety-sensitive function** means an employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**Refuse to submit** (to an alcohol or controlled substance test) means that an employee

(1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this Policy and Procedure;

(2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this Policy and Procedure; or,

(3) engages in conduct that clearly obstructs the testing process.
Safety-sensitive function means any of those duty functions set forth in the definition of On-Duty time.

Screening test (also known as initial test) In alcohol testing, it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Substance abuse professional (SAP) means a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

3. STATEMENT OF PHILOSOPHY:

Drugs and Alcohol in the Workplace — In passing the Omnibus Transportation Employee Testing Act of 1991, Congress found that:

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation’s citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;
(5) the testing of uniformed personnel of the Armed Forces has shown that
the most effective deterrent to abuse of alcohol and use of illegal drugs is
increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for
abuse of alcohol or use of illegal drugs is performed in a manner which
protects an individual's right of privacy, ensures that no individual is
harassed by being treated differently from other individuals, and ensures that
no individual's reputation or career development is unduly threatened or
harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of
alcohol or use of illegal drugs, and should be made available to individuals,
as appropriate.

City Philosophy — As stated in the City of Modesto's Alcohol and Drug Abuse
Policy, employees shall not utilize or be under the influence of alcohol or drugs
while in City vehicles, at work locations, or while on duty or paid standby; shall not
possess alcohol or drugs while on duty, or in City vehicles; shall not sell or provide
or participate in or arrange for the selling or provision of prescription or illegal drugs
to any other employee or to any person while such employee is on duty or paid
standby; nor have their ability to work impaired as a result of the use of alcohol or
drugs. Employees must be able to perform their duties safely and efficiently, in the
interest of the public and their fellow workers, as well as themselves. The influence
of drugs and alcohol on employees is not consistent with this objective.

The City will act to eliminate any substance abuse (alcohol, illegal drugs,
 prescription drugs, or any other substance which could impair an employee's ability
to perform safely and effectively the functions of the particular job) which increases
the potential for accidents, absenteeism, substandard performance, poor employee
morale, or damage to the City's reputation.

4. **SCOPE:**

A. **City Designee:** The Risk Manager is designated to administer this Policy
and Procedure and to answer questions concerning its implementation.
B. Employees Subject to Testing: Any employee or volunteer (hereinafter collectively referred to as employee), except fire personnel¹, who possesses a Class A or Class B California Driver’s License and is required to operate or maintain a commercial motor vehicle or any employee who operates or maintains a motor vehicle transporting hazardous material or who carries a firearm and is assigned to the Modesto Transportation Center.

5. PROHIBITED CONDUCT AND DISQUALIFICATION:

A. Prohibited Conduct

1. Alcohol concentration. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.04 or greater.

2. Alcohol possession. No employee shall be on duty or operate a commercial motor vehicle while the employee is in possession of alcohol.

3. Alcohol on-duty use. No employee shall use alcohol while on-duty.

4. Alcohol pre-duty use. No employee shall perform safety-sensitive functions within four (4) hours after using alcohol.

5. Alcohol use following an accident. No employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until her or she undergoes a post-accident alcohol test, whichever occurs first.

6. Other alcohol-related conduct. No employee tested under this Policy and Procedure who is found to have an alcohol concentration

¹ Section 34520 (e) of the California Vehicle Code exempts fire personnel from the provisions of the Omnibus Transportation Employee Training Act of 1991. However, fire personnel are still covered by the City’s Alcohol and Drug Abuse Policy.

Revised 12/13/1996
of 0.01\(^2\) or greater but less than 0.04 shall perform safety-sensitive functions until the start of the employee's next regularly scheduled tour of duty, but not less than 24 hours following administration of the test.

7. **Controlled substance use.** No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.

An employee taking prescribed drugs who has knowledge of or has been advised that they have the potential to interfere with safe work performance shall report this possibility to the supervisor before beginning work. Failure to notify a supervisor may result in disciplinary action, up to and including termination. The employee may be required to provide a statement from a licensed physician, nurse practitioner, or physician assistant, that the employee is able to work safely while taking the prescribed medication. An employee who is not cleared to work will not be permitted to work unless an alternative work assignment is granted under the City's modified duty assignment policy. If no alternative work assignment is available, the employee may use sick leave, accrued time off, or approved leave of absence until released for work by a licensed physician, nurse practitioner, or physician assistant.

8. **Controlled substance testing.** No employee shall report for duty, remain on duty, or perform a safety-sensitive function, if the employee tests positive for controlled substances.

\(^2\) Although Federal Regulations implementing the Omnibus Transportation Employee Testing Act of 1991 stipulate an alcohol concentration of 0.02, California Vehicle Code Section 34501.15 states that an employee may not perform a safety-sensitive function with an alcohol concentration greater than 0.01.
9. **Refusal to submit to required alcohol or controlled substances test.** No employee shall refuse to submit to an alcohol or controlled substance test as further defined herein. *Refusal to submit to a required test is the same as having a positive test result.*

B. **Disqualification**

1. **Removal from safety-sensitive function.** No employee shall perform safety-sensitive functions who has engaged in conduct prohibited by this Policy and Procedure. An employee who tests positive for alcohol or controlled substances shall be placed on leave pending disciplinary action review.

2. **Required evaluation and testing.** No employee who has engaged in conduct prohibited by this Policy and Procedure shall perform safety-sensitive functions until the employee has been evaluated by a *substance abuse professional* (SAP) and has undergone a *Return-to-duty Test*. In addition, if the employee was identified by the SAP as needing assistance in resolving a chemical dependency problem, the employee must:
   
   - be evaluated by the SAP to determine that the employee properly followed any prescribed rehabilitation program, and
   - be subject to unannounced *Follow-up Alcohol and Drug Tests*.

6. **REQUIRED TESTS**

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*Unless otherwise provided by memorandum from the City's Risk Manager, all controlled substance testing will be conducted by Gould Medical Foundation, Occupational Medicine, 600 Coffee Road, Modesto, CA (209) 524-1211. Alcohol tests may be conducted by Gould or the Modesto Police Department (MPD). To the extent feasible, the employee's supervisor should notify Gould or MPD prior to the employee arriving for the test.*
A. Pre-Employment/Pre-Duty Testing: Prior to the first time a newly hired, transferred or promoted employee performs safety-sensitive functions, the employee shall undergo testing for alcohol and controlled substances. Said employee shall not perform any safety-sensitive function until after the results of the pre-employment test are known.

The City shall notify an applicant of the results of a pre-employment test if the applicant requests such results within sixty (60) calendar days of being notified of the disposition of the employment application.

The City shall obtain, upon written consent of the employee, information on the employee’s alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years from previous employers. This information shall be obtained and reviewed by the City no later than fourteen (14) calendar days after the first time an employee performs safety sensitive functions. The employee shall not perform any safety-sensitive functions after fourteen (14) calendar days without obtaining the information.

B. Post-Accident Testing: As soon as practicable following any accident involving a commercial motor vehicle where the driver may have been at fault, each employee who was performing a safety-sensitive function with respect to the vehicle shall be tested for alcohol and controlled substances. The determination of probable fault and of which employee(s) other than the driver whose performance may have contributed to the accident shall be determined by the City’s Risk Manager utilizing the best information available at the time of the decision.

If a post-accident alcohol test is not administered within two (2) hours following the accident, the employee’s supervisor shall immediately forward to the City’s Risk Manager a memorandum stating the reasons why the test was not promptly administered. If a post-accident alcohol test is not administered within eight (8) hours following the accident, the employee’s supervisor shall immediately forward to the City’s Risk Manager a memorandum stating the reasons why the test was not promptly administered and no further attempts to administer a post-accident alcohol test shall be made.
If a post-accident controlled substance test is not administered within thirty-two (32) hours following the accident, the employee’s supervisor shall immediately forward to the City’s Risk Manager a memorandum stating the reasons why the test was not promptly administered and no further attempts to administer a post-accident controlled substance test shall be made.

An employee who is subject to a post-accident test shall remain readily available for such test or shall be deemed to have refused to submit to testing. Nothing in this paragraph shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

C. Random Testing: All employees shall be subject to periodic, random testing. Subject to modification by DOT, the minimum annual percentage rate for random alcohol testing shall be twenty-five percent (25%) of the average number of employees covered by this policy; the minimum annual percentage rate for random controlled substance testing shall be fifty percent (50%) of the average number of employees covered by this policy.

The City’s Risk Manager shall schedule unannounced alcohol and controlled substance tests and select employees for testing by utilizing a random number generator that matches the employee’s social security number. Each employee shall have an equal chance of being tested each time selections are made. Employees selected shall be notified by their supervisor to proceed immediately to the collection site for testing.

An employee shall only be tested for alcohol while the employee is performing safety-sensitive functions, just before the employee is to perform safety sensitive functions, or just after the employee has ceased performing such functions.

D. Reasonable Suspicion Testing: As currently provided in the City’s Alcohol and Drug Abuse Policy, the City may require an employee to submit to an alcohol and/or controlled substance test whenever it has reasonable suspicion to believe that an employee has violated the prohibitions of this policy. The employee shall be immediately transported.
to the collection site and said test shall be administered within two (2) hours following determination of reasonable suspicion.

**Reasonable suspicion** is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform the job safely is reduced.

Any of the following, alone or in combination, may constitute reasonable suspicion:

1. Odor of alcoholic beverage on breath
2. Slurred and/or thick speech
3. Staggered gait (Unsteady walking and movement)
4. Vertical and/or horizontal nystagmus
5. Abnormally constricted pupils (below 2.5 mm) which are non-responsive to light
6. Abnormally dilated pupils (above 6.5 mm) which are non-responsive to light
7. Loss of attention span under controlled conditions
8. Inability to comprehend under controlled conditions
9. Hallucinating
10. An accident involving City property, where there is reason to believe that employee impairment may have been a factor
11. Possession of alcohol on the job
12. Possession of an illegal drug
13. Possession of a prescription drug on the job without a valid prescription
14. Objective symptoms of drug usage identified by a trained medical practitioner or law enforcement officer

Any manager or supervisor directing an employee to submit to a drug and/or alcohol test shall document in writing, on the form provided (attachment A), the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
Any manager or supervisor encountering an employee who refuses to submit to a drug and/or alcohol test shall remind the employee of the requirements and disciplinary consequences of this policy and procedure. The employee's refusal shall be documented in writing. Where there is reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported home after the employee has undergone alcohol and controlled substance testing. The employee shall be placed on paid administrative leave pending the outcome of the test.

E. Return-to-Duty Testing: Prior to returning to duty, any employee who has violated the provisions of this Policy and Procedure shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or a controlled substance test with a result indicating a verified negative result for controlled substance use. The City shall pay any test where the results are negative. The employee shall pay for any tests where the results are positive.

F. Follow-up Testing: Any employee who has been certified by a SAP as in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances shall undergo follow-up alcohol and/or controlled substance testing as directed by the SAP. The City shall pay any test where the results are negative. The employee shall pay for any tests where the results are positive.

G. Compensation: Time spent in conjunction with pre-duty, post-accident, random, and reasonable suspicion testing shall be considered as paid time. The City shall also pay for the cost of these tests, and pre-employment tests and the initial evaluation by the SAP. Cost of the test, SAP-required treatment, and time spent while testing for return-to-duty and follow-up testing shall be borne by the employee.

7. Alcohol Testing Methodology

A. Breath Alcohol Technician: The City or its agent shall only utilize a BAT who meets the stringent training requirements of 29 CFR §40.51 or is a law enforcement officer certified to use the EBT that is utilized.
B. **Alcohol Testing Devices:** The City or its agent shall only utilize an **EBT** which meets the requirements of 29 CFR §40.53.

C. **Quality Assurance Plan (QAP):** The City or its agent shall ensure that the **EBT** shall have a quality assurance plan developed by the manufacturer and that said plan is complied with for each **EBT** used for alcohol testing.

D. **Alcohol Testing Site:** Alcohol testing shall be conducted in a location that affords visual and aural privacy to the employee being tested, sufficient to prevent unauthorized persons from seeing or hearing test results.

8. **Alcohol Testing Procedures**

A. **Preparation for Testing:** Prior to being tested, the **BAT** shall require the employee to provide a photo identification and shall explain the testing procedure to the employee.

B. **Procedures for screening test:** The following procedures shall be followed:

1. The **BAT** and the employee shall complete their respective portions of the Breath Alcohol Testing Form (Attachment B). Refusal by the employee to sign this form shall be regarded as a refusal to take the test.

2. An individually-sealed mouthpiece shall be opened in view of the employee and attached to the **EBT** in accordance with the manufacturer's instructions.

3. The **BAT** shall instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the **EBT** indicates that an adequate amount of breath has been obtained.

4)(a) If the **EBT** does not meet the requirements of 29 CFR §40.53(b)(1) through (3), the **BAT** and the employee shall take the following steps:
(I) Show the employee the result displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, time and quantified result in Step 3 of the form.

(ii) Record the test number, date of the test, name of the BAT, location, and quantified test result in the log book. The employee shall initial the log book entry.

(4)(b) If the EBT provides a printed result, but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space, using a method that will provide clear evidence of removal (e.g., tamper-evident tape).

© If the EBT prints the test results directly on the form, the BAT shall show the employee the result displayed on the EBT.

(5)(a) In any case in which the result of the screening test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.

(b) If the employee does not sign the certification in Step 4 of the form or does not initial the log book entry for a test, it shall not be considered a refusal to be tested. In that event, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.

© If a test result printed by the EBT (see paragraph (4)(b) or (4)(c) of this section) does not match the displayed result, the BAT shall note the disparity in the remarks section. Both the employee and the BAT shall initial or sign the notation. The test shall be invalid and the City and employee shall be so advised.
(d) No further testing is authorized. The BAT shall transmit the result of less than 0.02 to the City in a confidential manner, and the City shall receive and store the information so as to ensure that confidentiality is maintained.

(6) If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.

(7) If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test shall complete and sign the form and log book entry. The BAT will provide the employee with Copy 2 of the form.

C. Procedures for confirmation test: The following procedures shall be followed:

(1) If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT shall follow the procedures outlined above in Preparation for Testing.

(2) The BAT shall instruct the employee not to eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This waiting period begins with the completion of the screening test, and shall not be less than 15 minutes. The confirmation test shall be conducted within 20 minutes of the completion of the screening test. The BAT shall explain to the employee the reason for this requirement (i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the employee's benefit. The BAT shall also explain that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instruction. If the BAT becomes aware that the employee has not complied with this instruction, the BAT shall so note in the "Remarks" section of the form.

(3)(a) If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT shall initiate a new
Breath Alcohol Testing form. The BAT shall complete Step 1 on the form. The employee shall complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test. The BAT shall note in the "Remarks" section of the form that a different BAT conducted the screening test.

(b) In all cases, the first three steps of the Procedures for screening test shall be followed. A new mouthpiece shall be used for the confirmation test.

(4) Before the confirmation test is administered for each employee, the BAT shall ensure that the EBT registers 0.00 on an air blank. If the reading is greater than 0.00, the BAT shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument.

(5) Any EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within tolerance limits.

(6) In the event that the screening and confirmation test results are not identical, the confirmation test result is deemed to be the final result upon which any action under operating administration rules shall be based.

(7)(a) If the EBT provides a printed result, but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space, using a method that will provide clear evidence of removal (e.g., tamper-evident tape).

(b) If the EBT prints the test results directly onto the form, the BAT shall show the employee the result displayed on the EBT.
(8)(a) Following the completion of the test, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall sign the certification and fill in the date in Step 4 of the form.

(b) If the employee does not sign the certification in Step 4 of the form or does not initial the log book entry for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.

(9)(a) The BAT shall transmit all results to the City in a confidential manner. The Risk Manager or designee shall receive and handle alcohol testing results in a confidential manner. All communications by BATs to the City concerning the alcohol testing results of employees shall be to the designated City representative.

(b) Such communication may be in writing, in person or by telephone or electronic means, but the BAT shall ensure immediate communication to the City of the results that require the City to prevent the employee from performing a safety-sensitive function.

(7)(a) If a test result printed by the EBT (see paragraph (7)(a) or (7)(b) of this section) does not match the displayed result, the BAT shall note the disparity in the remarks section. Both the employee and the BAT shall initial or sign the notation. The test is invalid and the City and employee shall be so advised.

(d) The BAT shall conduct an air blank. If the reading is greater than 0.00, the test is invalid.

(d) If the initial communication is not in writing, the BAT shall follow the initial communication by providing to the City the City's copy of the breath alcohol testing form. The City shall store the information so as to ensure that confidentiality is maintained.
D. Refusals to Test and Uncompleted Tests.

(1) Refusal by an employee to complete and sign the breath alcohol testing form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test, shall be noted by the BAT in the remarks section of the form. The testing process shall be terminated and the BAT shall immediately notify the City.

(2) If a screening or confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test, as applicable, using a new breath alcohol testing form with a new sequential test number.

E. Inability to Provide an Adequate Amount of Breath

(1) This section sets forth procedures to be followed in any case in which an employee is unable, or alleges that he or she is unable, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition.

(2) The BAT shall again instruct the employee to attempt to provide an adequate amount of breath. If the employee refuses to make the attempt, the BAT shall immediately inform the City.

(3) If the employee attempts and fails to provide an adequate amount of breath, the BAT shall so note in the "Remarks" section of the breath alcohol testing form and immediately inform the City.

(4) If the employee attempts and fails to provide an adequate amount of breath, the City shall direct the employee to obtain, as soon as practical after the attempted provision of breath, an evaluation from the City's Occupational Medical Specialist concerning the employee's medical ability to provide an adequate amount of breath.
(i) If the City's Occupational Medical Specialist determines, in his or her reasonable medical judgment, that a medical condition has, or with a high degree of probability, could have, precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The City's Occupational Medical Specialist shall provide to the City a written statement of the basis for his or her conclusion.

(ii) If the City's Occupational Medical Specialist, in his or her reasonable medical judgment, is unable to make the determination set forth herein, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The City's Occupational Medical Specialist shall provide a written statement of the basis for his or her conclusion to the City.

F. Invalid Tests. A breath alcohol test shall be invalid under the following circumstances:

(1) The next external calibration check of an EBT produces a result that differs by more than the tolerance stated in the QAP from the known value of the test standard. In this event, every test result of 0.02 or above obtained on the device since the last valid external calibration check shall be invalid;

(2) The BAT does not observe the minimum 15-minute waiting period prior to the confirmation test;

(3) The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to or after the administration of the test;

(4) The BAT does not sign the required form;

(5) The BAT has failed to note on the remarks section of the form that the employee has failed or refused to sign the form following the recording or printing on or attachment to the form of the test result;
(6) An EBT fails to print a confirmation test result; or

(7) On a confirmation test and, where applicable, on a screening test, the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

9. Specimen Collection Procedures for Testing Controlled Substances

A. Urine Specimen Collection: All specimens shall be collected at Gould Medical Foundation or Memorial Hospital, unless otherwise approved by the City's Risk Manager. The following procedures shall be followed:

(1) The actual collection site shall be a location having an enclosure with which private urination can occur, a toilet for completion of urination, and a suitable clean surface for writing. The site shall also have a source of water for washing hands, which, if practicable, shall be external to the enclosure where urination occurs.

(2) The collection site shall be secure.

(3) No unauthorized personnel shall be permitted in any part of the designated collection site where urine specimens are collected or stored.

(4) Collection of urine specimens shall allow individual privacy, unless there is reason to believe that an employee may alter or substitute the specimen provided.

(5) For purposes of this section, the following circumstances are the exclusive grounds constituting a reason to believe that the employee may alter or substitute the specimen.

(a) The employee has presented a urine specimen that falls outside the normal temperature range (32.5° - 37.7°C/90.5°-99.8°F), and

(I) The employee declines to provide a measurement of oral body temperature; or
(ii) Oral body temperature varies by more than $1^\circ C/1.8^\circ F$ from the temperature of the specimen;

(b) The last urine specimen provided by the employee (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L;

© The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.); or

(d) The employee has previously been determined to have used a controlled substance without medical authorization and the particular test was being conducted under a DOT agency regulation providing for follow-up testing upon or after return to duty.

(6) A higher-level supervisor of the collection site person, or the City's Risk Manager, shall review and concur in advance with any decision by a collection site person to obtain a specimen under the direct observation of a same gender collection site person based upon the circumstances described herein.

(7) The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

(a) To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. Where practicable, there shall be no other source of water in the enclosure where urination occurs. If there is another source of water in the enclosure it shall be effectively secured or monitored to ensure it is not used as a source for diluting the specimen.

(b) When an individual arrives at the collection site, the collection site person shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo
identification or identification by the City's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection.

© The collection site person shall ask the employee to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the employee's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The employee may retain his or her wallet.

(d) The employee shall be instructed to wash and dry his or her hands prior to urination.

(e) After washing hands, the employee shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent or any other materials which could be used to adulterate the specimen.

(f) The employee may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for employee privacy. The collection site person shall provide the employee with a specimen bottle or collection container, if applicable, for this purpose.

(g) The collection site person shall note any unusual behavior or appearance on the urine custody and control form.

(h) The collection site person shall instruct the employee to provide at least 45 ml of urine under the split sample method of collection.

(i) The donor shall urinate into a collection container or a specimen bottle capable of holding at least 60 ml.

(j) If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the
primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.

(k) If a single specimen bottle is used as a collection container, the collection site person shall pour 30 ml of urine from the specimen bottle into a second specimen bottle (to be used as the primary specimen) and retain the remainder (at least 15 ml) in the collection bottle (to be used as the split specimen).

(l) Both bottles shall be shipped in a single shipping container, together with copies 1, 2, and the split specimen copy of the chain of custody form, to the laboratory.

(m) If the test result of the primary specimen is positive, the employee may request that the MRO direct that the split specimen be tested at the employee's expense in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive test result.

(n) When the MRO informs the laboratory in writing that the employee has requested a test of the split specimen, the laboratory shall forward to a different DHHS-approved laboratory, the split specimen bottle, with seal intact, a copy of the MRO request, and the split specimen copy of the chain of custody form with appropriate chain of custody entries.

(o) The result of the test of the split specimen is transmitted by the second laboratory to the MRO.

(p) Action required by this Policy and Procedure as the result of a positive drug test (e.g., removal from performing a safety-sensitive function) is not stayed pending the result of the rest of the split specimen.

(q) If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary
specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the DOT, the City, and the employee.

(r) Upon receiving the specimen from the employee, the collection site person shall determine if it has at least 30 milliliters of urine for the primary or single specimen bottle and, an additional 15 ml of urine for the split specimen bottle. If the employee is unable to provide such a quantity of urine, the collection site person shall instruct the employee to drink not more than 24 ounces of fluids and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the City so notified. The MRO shall refer the employee for a medical evaluation to develop pertinent information concerning whether the employee’s inability to provide a specimen is genuine or constitutes a refusal to test. (In pre-employment testing, if the City does not wish to hire the employee, the MRO is not required to make such a referral.) Upon completion of the examination, the MRO shall report his or her conclusions to the City in writing.

(s) After the specimen has been provided and submitted to the collection site person, the employee shall be allowed to wash his or her hands.

(t) Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measure is critical and in no case shall exceed 4 minutes.

(u) A specimen temperature outside the range of 32.5° - 37.7° C/90.5 °F-99.8°F constitutes a reason to believe that the employee has altered or substituted the specimen. In such cases, the employee supplying the specimen may volunteer to have his or her oral
temperature taken to provide evidence to counter the reason to believe the employee may have altered or substituted the specimen.

(v) Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted on the urine custody and control form.

(w) All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.

(x) Whenever there is reason to believe that a particular employee has altered or substituted the specimen as described in paragraph A(5)(a)(I), (ii) or (iii) of this section, a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person.

(y) Both the employee being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. As provided below, the specimen shall be sealed (by placement of a tamper proof seal over the bottle cap and down the sides of the bottle) and labeled in the presence of the employee. If the specimen is transferred to a second bottle, the collection site person shall request the employee to observe the transfer of the specimen and the placement of the tamper proof seal over the bottle cap and down the sides of the bottle.

(z) The collection site person and the employee being tested shall be present at the same time during procedures outlined in paragraphs A(7)(t) - (7)(v) of this section.

(aa) The collection site person shall place securely on the bottle an identification label which contains the date, the employee's specimen number, and any other identifying information provided or required by the City. If separate from the label, the tamper proof seal shall also be applied.
(ab) The employee shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from him or her.

(ac) The collection site person shall enter on the drug testing custody and control form all information identifying the specimen. The collection site person shall sign the drug testing custody and control form certifying that the collection was accomplished according to the applicable Federal requirements.

(ad)(i) The employee shall be asked to read and sign a statement on the drug testing custody and control form certifying that the specimen identified as having been collected from him or her is in fact the specimen he or she provided.

(ad)(ii) When specified by DOT agency regulation or required by the collection site (other than an employer site) or by the laboratory, the employee may be required to sign a consent or release form authorizing the collection of the specimen, analysis of the specimen for designated controlled substances, and release of the results to the employer. The employee may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of others.

(ae) The collection site person shall complete the chain of custody portion of the drug testing custody and control form to indicate receipt of the specimen from the employee and shall certify proper completion of the collection.

(af) The urine specimen and chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, the collection site person shall ensure that it is appropriately safeguarded during temporary storage.

(ag)(i) While any part of the above chain of custody procedures is being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person.
If the involved collection site person leaves his or her work station momentarily, the collection site person shall take the specimen and drug testing custody and control form with him or her or shall secure them. After the collection site person returns to the work station, the custody process will continue. If the collection site person is leaving for an extended period of time, he or she shall package the specimen for mailing before leaving the site.

\( \text{(ag)(ii)} \) The collection site person shall not leave the collection site in the interval between presentation of the specimen by the employee and securement of the sample with an identifying label bearing the employee’s specimen identification number (shown on the urine custody and control form) and seal initialed by the employee. If it becomes necessary for the collection site person to leave the site during this interval, the collection shall be nullified and (at the election of the employer) a new collection begun.

**B. Chain-of-custody:** A chain-of-custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on the form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

10. **Testing Methodology**

**A. Appropriate Laboratory:** The City shall utilize PharmChem Laboratories, Inc., Menlo Park, CA for processing all controlled substance tests.

**B. Initial Test**

1. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

   Marijuana metabolites...... 400 50 ng/ml
Cocaine metabolites........ 300 ng/ml
Opiate metabolites........ 25 ng/ml if immunoassay specific for free morphine.
Phencyclidine.............. 25 ng/ml
Amphetamines.............. 1,000 ng/ml

(2) These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances at other concentrations.

C. Confirmatory test

(1) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff levels listed in this paragraph for each drug. All confirmations shall be by quantitative analysis. Concentrations that exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value."

Marijuana metabolite\(^1\).... 15 ng/ml
Cocaine metabolite\(^2\).... 150 ng/ml
Opiates:
  Morphine....... 300 ng/ml
  Codeine....... 300 ng/ml
Phencyclidine.... 25 ng/ml
Amphetamines:
  Amphetamine...... 500 ng/ml
  Methamphetamine... 500 ng/ml

\(^1\)Delta-9-tetrahydrocannabinol-9-carboxylic acid.
\(^2\)Benzoyl ecgonine.

(2) These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other
considerations warrant identification of these substances at other concentrations.

D. Reporting of Test Results

(1) The laboratory shall report test results to the City's Medical Review Officer within an average of five (5) working days after receipt of the specimen by the laboratory. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible laboratory personnel. The report shall identify the drugs/metabolites tested for, whether positive or negative, the specimen number assigned by the City, and the drug testing laboratory specimen identification number (accession number).

(2) The laboratory shall report as negative all specimens that are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.

(3) The Medical Review Officer may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative, and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation of test results to the City.

(4) The laboratory may transmit results to the Medical Review Officer by various electronic means (for example, teleprinters, facsimile, or computer) in a manner designed to ensure confidentiality of the information. Results may not be provided verbally by telephone. The laboratory and City must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

(5) The laboratory shall send only to the Medical Review Officer the original or a certified true copy of the drug testing custody and control form (part 2), which, in the case of a report positive for drug use, shall be signed (after the required certification block) by the individual
responsible for day-to-day management of the drug testing laboratory of the individual responsible for attesting to the validity of the test reports, and attached to which shall be a copy of the test report.

(6) The laboratory shall provide to the City's Risk Manager a monthly statistical summary of urinalysis testing of the City's employees and shall not include in the summary any personal identifying information. Initial and confirmation data shall be included from test results reported within that month. Normally this summary shall be forwarded by registered or certified mail not more than 14 calendar days after the end of the month covered by the summary. The summary shall contain the following information:

(I) Initial Testing:

(A) Number of specimens received;

(B) Number of specimens reported out; and

© Number of specimens screened positive for:

Marijuana metabolites
Cocaine metabolites
Opiate metabolites
Phencyclidine
Amphetamine

(ii) Confirmatory Testing:

(A) Number of specimens received for confirmation;

(B) Number of specimens confirmed positive for:

Marijuana metabolite
Cocaine metabolite
Morphine, codeine
Phencyclidine
E. Specimen Retention

Long-term frozen storage (-20°C or less) ensures that positive urine specimens will be available for any necessary retest during administrative or disciplinary proceedings. Drug testing laboratories shall retain and place in properly secured long-term frozen storage for a minimum of two (2) years all specimens confirmed positive, in their original labeled specimen bottles. Within this two-year period, may request the laboratory to retain the specimen for an additional period of time, but if no such request is received the laboratory may discard the specimen after the end of two (2) years, except that the laboratory shall be required to maintain any specimens known to be under legal challenge for an indefinite period.

11. Test Results

A. Medical Review Officer Duties and Qualifications

(1) An essential part of the drug testing program is the final review of confirmed positive results from the laboratory. A positive test result does not automatically identify an employee/applicant as having used drugs in violation of this Policy and Procedure. An individual with a detailed
knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by the Medical Review Officer prior to the transmission of the results to the City. The MRO review shall include review of the chain of custody to ensure that it is complete and sufficient on its face.

(2.) The role of the MRO is to review and interpret confirmed positive test results obtained through the employer's testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action may include conducting a medical interview and review of the individual's

B. Positive Test Results

(1) Prior to making a final decision to verify a positive test result for an individual, the MRO shall give the employee an opportunity to discuss the test result with him or her.

(2) The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the employee. Except as provided in paragraph (B)(5) of this section, the MRO shall talk directly with the employee before verifying a test as positive.

(3) If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact a designated City official who shall direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through the designated management official, the designated management official shall employ procedures that ensure, to the maximum extent practicable, the requirement that the employee contact the MRO is held in confidence.

(4) If, after making all reasonable efforts, the designated City official is unable to contact the employee, the City may place the employee on leave without pay.
(5) The MRO may verify a test as positive without having communicated directly with the employee about the test in three circumstances:

(i) The employee expressly declines the opportunity to discuss the test;

(ii) The designated City representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO (see paragraphs (c)(3) and (4) of this section), and more than five (5) days have passed since the date the employee was successfully contacted by the designated City representative; or

(iii) Other circumstances provided for in DOT agency drug testing regulations.

(6) If a test is verified positive under the circumstances specified in paragraphs (B)(5)(ii) of this section, the employee may present to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from timely contacting the MRO. The MRO, on the basis of such information, may reopen the verification, allowing the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO declares the test to be negative.

(7) Following verification of a positive test result, the MRO shall refer the employee to the City's employee assistance program and notify the City's Risk Manager of the test results.

C. Verification for Opiates; Review for Prescription Medication.

(1) Before the MRO verifies a confirmed positive result for opiates, he or she shall determine that there is clinical evidence - in addition to the urine test - of unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine). (This requirement does not apply if the City's GC/MS confirmation testing for opiates confirms the presence of 6-monocetylmorphine.)
(2) The MRO shall notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen, if the test is verified as positive. If the employee requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report cancellation and the reasons for it to the DOT, the City, and the employee.

(3) If an employee has not contacted the MRO within 72 hours, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall direct that the reanalysis of the primary specimen or analysis of the split specimen, as applicable, be performed.

D. Disclosure of information. Except as provided in this paragraph, the MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process.

(1) The MRO may disclose such information to the City, a DOT agency or other Federal safety agency, or a physician responsible for determining the medical qualification of the employee under an applicable DOT agency regulation, as applicable, only if -

   (i) An applicable DOT regulation permits or requires such disclosure;

   (ii) In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule; or
(iii) In the MRO's reasonable medical judgment, in a situation in which there is no DOT agency rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her safety-sensitive function could pose a significant safety risk.

(2) Before obtaining medical information from the employee as part of the verification process, the MRO shall inform the employee that information may be disclosed to third parties as provided in this paragraph and the identity of any parties to whom information may be disclosed.

12. Confidentiality and Record keeping

A. Confidentiality and Access to Records

(1) Laboratory reports or test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical file that will be securely kept under the control of the Personnel Director. The reports or test results shall be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the City and employee; (3) the information is to be used in administering an employee benefit plan; or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

(2)(a) Except as required by law or expressly authorized or required in this section, the City shall not release driver information that is contained in records required to be maintained by this Policy and Procedure.

(b) An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances including any records pertaining to his or her alcohol or controlled substances tests. The City shall promptly provide the records requested by the employee.
(c) The City shall make available copies of all results for City alcohol and/or controlled substances testing conducted under this Policy and Procedure and any other information pertaining to the City's alcohol misuse and/or controlled substances use prevention program, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the City.

(d) When requested by the National Transportation Safety Board as part of an accident investigation, the City shall disclose information related to the City's administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.

(e) Records shall be made available to a subsequent employer upon receiving a written request from a former employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the former employee's request.

(f) The City may disclose information required to be maintained under this Policy and Procedure pertaining to an employee, the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substance test administered under this part, or from the City's determination that the employee engaged in conduct prohibited by this Policy and Procedure (including, but not limited to, a workers' compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

(g) The City shall release information regarding an employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

B. Maintenance and Retention of Records

(a) General Requirement. The City shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in
this section. The records shall be maintained in a secure location with controlled access.

(b) **Period of Retention.** The City shall maintain the records in accordance with the following schedule:

(1) **Five years.** The following records shall be maintained for a minimum of five (5) years:

   (i) Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater,
   
   (ii) Records of employee verified positive controlled substances test results,
   
   (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
   
   (iv) Calibration documentation,
   
   (v) Employee evaluation and referrals shall be maintained for a minimum of five (5) years, and
   
   (vi) A copy of each annual calendar year summary.

(2) **Two years.** Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) and training shall be maintained for a minimum of two (2) years.

(3) **One year.** Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one (1) year.

© **Types of records.** The following specific records shall be maintained.

(1) Records related to the collection process:

   (i) Collection logbooks, if used;
(ii) Documents relating to the random selection process;

(iii) Calibration documentation for evidential breath testing devices;

(iv) Documentation of breath alcohol technician training;

(v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;

(vi) Documents generated in connection with decisions on post-accident tests;

(vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing; and

(viii) Consolidated annual calendar year summaries.

(2) Records related to an employee's results:

(I) The City's copy of the alcohol test form, including the results of the test;

(ii) The City's copy of the controlled substances test chain of custody and control form;

(iii) Documents sent by the MRO to the City.

(iv) Documents related to the refusal of any employee to submit to an alcohol or controlled substances test required by this Policy and Procedure; and

(v) Documents presented by an employee to dispute the result of an alcohol or controlled substances test administered under this Policy and Procedure.

(3) Records related to other violations of this Policy and Procedure.
(4) Records related to evaluations:

(I) Records pertaining to a determination by a substance abuse professional concerning an employee's need for assistance; and

(ii) Records concerning an employee's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

(I) Materials on alcohol misuse and controlled substance use awareness, including a copy of the City's Policy on alcohol misuse and controlled substance use;

(ii) Documentation of compliance with the requirement to establish this Policy and Procedure, including the employee's signed receipt of education materials;

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion; and

(iv) Certification that any training conducted under this part complies with the requirements for such training.

(6) Records related to drug testing:

(I) Agreements with collection site facilities, laboratories, medical review officers, and consortia;

(ii) Names and positions of officials and their role in the City's alcohol and controlled substances testing program(s);

(iii) Monthly laboratory statistical summaries of urinalysis; and

(iv) The City's drug testing policy and procedures.
13. **Employee Assistance Program (EAP)**

(1) The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, the EAP provider (Family Service Agency), or the City's Employee Benefits Coordinator for additional information. In lieu of the EAP, sworn police employees may seek assistance or referral from the department's contracting psychologist.

(2) Employees who think they may have an alcohol or drug usage problem are urged to seek voluntarily confidential assistance from the Employee Assistance Program or other available resources. Employees who voluntarily come forward and seek assistance will not be disciplined solely for having or admitting a drug or alcohol problem. The City considers employees' voluntary pursuit of such assistance and treatment preferable to ongoing performance problems caused by such dependency. Voluntary seeking of treatment shall not provide immunity from disciplinary actions which were proposed or in process. However, action on related problems may be postponed pending successful resolution of the usage problem. Successful completion of a drug or alcohol treatment program shall be considered when determining disciplinary actions. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not voluntarily seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.

(3) The Family Service Agency shall provide SAP services for the City.

(4) Each employee who engages in conduct prohibited by this Policy and Procedure shall be evaluated by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use.

(5)(a) Before an employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this Policy and Procedure, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct
involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.

(b) In addition, each employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use,

(i) shall be evaluated by a SAP to determine that the driver has properly followed any rehabilitation program prescribed under, and

(ii) shall be subject to unannounced follow-up alcohol and controlled substances tests administered by the City following the employee's return to duty. The number and frequency of such follow-up testing shall be as directed by the SAP, and consist of at least six (6) tests in the first 12 months following the employee's return to duty. The City may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular employee. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines that such testing is no longer necessary.

14. Effects of Alcohol and Drug Use

Refer to attached Appendix C for specific facts about the effects of alcohol and controlled substances.

15. Discipline

A. Refusal to submit to an alcohol and/or controlled substance test when directed by management staff shall constitute insubordination and may be grounds for discipline up to and including termination.

B. The controlled substances and/or alcohol test may screen for any substance which could impair an employee's ability to perform effectively and safely the functions of the job, including, but not limited to, prescription medications,
alcohol, heroin, cocaine, opiates, phencyclidine, methadone, barbiturates, amphetamines, marijuana and other cannabinoids.

C. In addition to action taken under Section 5, B Disqualification, a positive result from a controlled substance and/or alcohol may result in disciplinary action, up to and including termination.

D. If an alcohol or controlled substance test is positive, the employee shall be placed on paid administrative leave not to exceed three (3) workdays. Subsequent to the third day, the employee shall be placed on leave without pay. The City shall conduct an investigation to gather all facts and determine appropriate disciplinary action. Discipline imposed shall be in conformance with the applicable Rules, Personnel Administrative Orders and Memoranda of Understanding.

If an alcohol or controlled substance test is positive, the employee shall be placed on leave. The employee, at his/her discretion, may use any accrued vacation, holiday or compensating time-off or, if no such accrued leave is available, shall be placed on leave without pay. Sworn-employees shall be placed on administrative leave or re-assigned to a non-safety sensitive position at the discretion of the Chief of Police. The employee shall remain on such leave until:

1. The employee is released by the SAP to take a return-to-duty test and the employee obtains a negative test result; or,

2. the SAP determines that the employee requires outpatient treatment, and modified duty is not available. The employee shall continue on leave until released by the SAP to take a return-to-duty test and the employee obtains a negative test result. During this time, the employee may also use any accrued sick leave; or,

3. the SAP determines that the employee requires inpatient treatment. The employee shall continue on leave until the employee completes the treatment AND the employee is released by the SAP to take a return-to-duty test and the employee obtains a negative test result. During this time, the employee may also use any accrued sick leave.
The City shall conduct an investigation to gather all facts and determine appropriate disciplinary action, taking into consideration any leave without pay. Discipline imposed shall be in conformance with the applicable Rules, Personnel Administrative Orders and Memoranda of Understanding.

E. An employee may request a representative be available and present prior to any meeting which the employee believes may reasonably result in a disciplinary action. The supervisor or manager shall allow the employee access to a telephone, radio or other means of contacting a representative. The representative must be available and present within a reasonable time frame from the time of the request.

F. When considering disciplinary action for a controlled substance or alcohol abuse related problem, the Department Head or designee may consider successful completion of a recognized substance abuse program as a potential mitigating factor. Disciplinary actions may be reduced or postponed pending continued successful rehabilitation efforts. In modifying an action, the Department may require controlled substance follow-up testing on demand as a condition of modifying, delaying or overturning a proposed disciplinary action.

16. **Blind Performance Test Procedures**

The City shall submit three blind performance test specimens for each 100 employee specimens it submits, up to a maximum of 100 blind performance test specimens submitted per quarter.

17. **Management Information Systems**

By March 15 of each year, the City shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs performed under this Policy and Procedure.
APPENDICES

A. Reasonable Suspicion Test Memorandum
B. U.S. Department of Transportation (DOT) Breath Alcohol Testing Form
C. Fact Sheets
D. Employee Acknowledgment Form
Appendix A: Reasonable Suspicion Test Memorandum

CITY OF MODESTO

MEMORANDUM

TO: ___________________________ Date: _________
FROM: _________________________ Time: _________

SUBJECT: Reasonable Suspicion Test

You are hereby directed to submit to a controlled substance and an alcohol test. You are being directed to submit to the test because I suspect you are under the influence of alcohol or drugs so that your ability to perform the functions of your job efficiently and safely is impaired. I observed or have information regarding the following:

__ Odor of alcoholic beverage on breath
__ Slurred and/or thick speech
__ Staggered gait (Unsteady walking and movement)
__ Vertical and/or horizontal nystagmus
__ Abnormally constricted pupils (below 2.5 mm) which are non-responsive to light
__ Abnormally dilated pupils (above 6.5 mm) which are non-responsive to light
__ Loss of attention span under controlled conditions
__ Inability to comprehend under controlled conditions
__ Hallucinating
__ An accident involving City property, where there is reason to believe that employee impairment may have been a factor
__ Possession of alcohol on the job
__ Possession of an illegal drug
__ Possession of a prescription drug without a valid prescription
__ Objective symptoms of drug usage identified by a trained medical practitioner or law enforcement officer
__ Other ____________________________

______________________________

This/these were observed by ______________________ at ____________________

You will be transported to Gould Medical Foundation for testing.

Revised 12/13/1996
At the test site, you will be required to provide a urine sample for controlled substance testing and perform a breath alcohol test. If you refuse to submit to the testing, you may be disciplined, up to and including termination and your refusal will be deemed to constitute a positive result. If you leave the worksite or testing site without my permission prior to testing or evaluation, you may be disciplined. Because I believe your ability to drive may be impaired, I will arrange for you to be transported home at an appropriate time.

Employees who think they may have an alcohol or drug usage problem are urged to seek voluntarily confidential assistance from the Employee Assistance Program or other available resources. Employees who voluntarily come forward and seek assistance will not be disciplined solely for having or admitting a drug or alcohol problem. The City considers employees' voluntary pursuit of such assistance and treatment preferable to ongoing performance problems caused by such dependency. Voluntary seeking of treatment shall not provide immunity from disciplinary actions which were proposed or in process. However, action on related problems may be postponed pending successful resolution of the usage problem. Successful completion of a drug or alcohol treatment program shall be considered when determining disciplinary actions. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not voluntarily seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs.
Appendix B: DOT Breath Alcohol Testing Form

U.S. Department of Transportation (DOT)
Breath Alcohol Testing Form

[THE INSTRUCTIONS FOR COMPLETING THIS FORM ARE ON THE BACK OF COPY 3]

STEP 1: TO BE COMPLETED BY BREATH ALCOHOL TECHNICIAN

A. Employee Name ________________________________
   (PRINT) (First, M.I., Last)

B. SSN or Employee ID No. ____________________________

C. Employer Name, ___________________________________________________________________
   Address, &
   Telephone No. ___________________________________________________________________
   _______________ ________________________________
   ( ) Telephone Number

D. Reason for Test:  □ Pre-employment  □ Random  □ Reasonable Suspicion/Cause  □ Post-accident  □ Return to Duty  □ Follow-up

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to breath alcohol testing required by U.S. Department of Transportation regulations and that the identifying information provided on this form is true and correct.

_________________________________________ ____________________________
Signature of Employee Date Month Day Year

STEP 3: TO BE COMPLETED BY BREATH ALCOHOL TECHNICIAN

I certify that I have conducted breath alcohol testing on the above named individual in accordance with the procedures established in the U.S. Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing devices identified, and that the results are as recorded.

Screening test: Complete only if the testing device is not designed to print the following.

<table>
<thead>
<tr>
<th>Test No.</th>
<th>Testing Device Name</th>
<th>Testing Device Serial Number</th>
<th>Time</th>
<th>AM/PM</th>
<th>Result</th>
</tr>
</thead>
</table>

Confirmation test: Confirmation test results MUST be affixed to the back of each copy of this form.

Remarks: ___________________________________________________________________

_________________________________________ ______________________________
(PRTNT) Breath Alcohol Technician’s Name (First, M.I., Last) Signature of Breath Alcohol Technician Date Month Day Year

STEP 4: TO BE COMPLETED BY EMPLOYEE

I certify that I have submitted to breath alcohol testing and the results are as recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment if the results are 0.02 or greater.

_________________________________________ ______________________________
Signature of Employee Date Month Day Year
Appendix C: Fact Sheet

**Drug Detection Periods**

Detection periods vary; rates of metabolism and excretion are different for each drug and use. Detection periods should be viewed as estimates. Cases can always be found to contradict these approximations.

<table>
<thead>
<tr>
<th>Drug</th>
<th>Detection Period</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Amphetamines</strong></td>
<td></td>
</tr>
<tr>
<td>Amphetamine</td>
<td>2-4 days</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>2-4 days</td>
</tr>
<tr>
<td><strong>Cocaine</strong></td>
<td></td>
</tr>
<tr>
<td>Benzoylcegonine</td>
<td>12-72 hours</td>
</tr>
<tr>
<td><strong>Cannabinoids (Marijuana)</strong></td>
<td></td>
</tr>
<tr>
<td>Casual Use</td>
<td>2-7 days</td>
</tr>
<tr>
<td>Chronic Use</td>
<td>Up to 30 days</td>
</tr>
<tr>
<td><strong>Ethanol (Alcohol)</strong></td>
<td>12-24 hours</td>
</tr>
<tr>
<td><strong>Opiates</strong></td>
<td></td>
</tr>
<tr>
<td>Codeine</td>
<td>2-4 days</td>
</tr>
<tr>
<td>Hydromorphone (Dilaudid)</td>
<td>2-4 days</td>
</tr>
<tr>
<td>Morphine (for Heroin)</td>
<td>2-4 days</td>
</tr>
<tr>
<td><strong>Phencyclidine (PCP)</strong></td>
<td></td>
</tr>
<tr>
<td>Casual Use</td>
<td>2-7 days</td>
</tr>
<tr>
<td>Chronic Use</td>
<td>Up to 30 days</td>
</tr>
</tbody>
</table>
Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).
Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.
Amphetamine Fact Sheet

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the U.S. or clandestinely manufactured in crude laboratories.

Description

- Amphetamine is sold in counterfeit capsules or as white, flat, double-scored “mini-bennies.” It is usually taken by mouth.

- Methamphetamine is often sold as a creamy white and granular powder or in lumps and is packaged in aluminum foil wraps or sealable plastic bags. Methamphetamine may be taken orally, injected, or snorted into the nose.

- Trade/street names include Biphetamine, Delcobese, Desotyn, Detedrine, Chetrol, Ritalin, Speed, Meth, Crank, Crystal, Monster, Black Beauties, and Rits.

Signs and Symptoms of Use

- Hyperexcitability, restlessness
- Dilated pupils
- Increased heart rate and blood pressure
- Heart palpitations and irregular beats
- Profuse sweating
- Rapid respiration
- Confusion
- Panic
- Talkativeness
- Inability to concentrate
- Heightened aggressive behavior.

Health Effects

- Regular use produces strong psychological dependence and increasing tolerance to drug.

- High doses may cause toxic psychosis resembling schizophrenia.

- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.

- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.
- The euphoric stimulation increases impulsive and risk-taking behaviors, including bizarre and violent acts.
- Withdrawal from the drug may result in severe physical and mental depression.

**Workplace Issues**

- Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual overtime demands or failure to get rest.

- Low-dose amphetamine use will cause a short-term improvement in mental and physical functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.
Cocaine Fact Sheet

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Description

- The source of cocaine is the coca bush, grown almost exclusively in the mountainous regions of northern South America.

- Cocaine Hydrochloride—“snorting coke” is a white to creamy granular or lumpy powder that is chopped into a fine powder before use. It is snorted into the nose, rubbed on the gums, or injected in veins. The effect is felt within minutes and lasts 40 to 50 minutes per “line” (about 60 to 90 milligrams). Common paraphernalia include a single-edged razor blade and a small mirror or piece of smooth metal, a half straw or metal tube, and a small screw cap vial or folded paper packet containing the cocaine.

- Cocaine Base—a small crystalline rock about the size of a small pebble. It boils at a low temperature, is not soluble in water, and is up to 90 percent pure. It is heated in a glass pipe and the vapor is inhaled. The effect is felt within seven seconds. Common paraphernalia includes a “crack pipe” (a small glass smoking device for vaporizing the crack crystal) and a lighter, alcohol lamp, or small butane torch for heating.

- Trade/street names include Coke, Rock, Crack, Free Base, Flake, Snow, Smoke, and Blow.

Signs and Symptoms of Use

- Financial problems
- Frequent and extended absences from meetings or work assignment
- Increased physical activity and fatigue
- Isolation and withdrawal from friends and normal activities
- Secretive behaviors, frequent nonbusiness visitors, delivered packages, phone calls
- Unusual defensiveness, anxiety, agitation
- Wide mood swings
- Runny or irritated nose
- Difficulty in concentration
- Dilated pupils and visual impairment
- Restlessness
- Formication (sensation of bugs crawling on skin)
- High blood pressure, heart palpitations, and irregular rhythm
- Hallucinations
- Hyperexcitability and overreaction to stimulus
- Insomnia
- Paranoia and hallucinations
- Profuse sweating and dry mouth
- Talkativeness.
Health Effects

- Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of nervous system illnesses such as Parkinson's disease could also occur.

- Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks.

- Strong psychological dependency can occur with one “hit” of crack. Usually, mental dependency occurs within days (crack) or within several months (snorting coke). Cocaine causes the strongest mental dependency of any known drug.

- Treatment success rates are lower than for other chemical dependencies.

- Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths has tripled in the last four years.

- Cocaine overdose was the second most common drug emergency in 1986—up from 11th place in 1980.

Workplace Issues

- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.

- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.

- The high cost of cocaine frequently leads to workplace theft and/or dealing.

- A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.

- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.
Cannabinoids (Marijuana) Fact Sheet

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood- and perception-altering effects it produces.

Description

- Usually sold in plastic sandwich bags, leaf marijuana will range in color from green to light tan. The leaves are usually dry and broken into small pieces. The seeds are oval with one slightly pointed end. Less prevalent, hashish is a compressed, sometimes tarlike substance ranging in color from pale yellow to black. It is usually sold in small chunks wrapped in aluminum foil. It may also be sold in an oily liquid.

- Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense.

- Cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking “bongs” (large bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls.

- Trade/street names include Marinol, THC, Pot, Grass, Joint, Reefer, Acapulco Gold, Sinsemilla, Thai Sticks, Hash, and Hash Oil.

Signs and Symptoms of Use

- Reddened eyes (often masked by eyedrops)
- Slowed speech
- Distinctive odor on clothing
- Lackadaisical “I don’t care” attitude
- Chronic fatigue and lack of motivation
- Irritating cough, chronic sore throat.

Health Effects

General

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.

- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.

- Marijuana is commonly contaminated with the fungus Aspergillus, which can cause serious respiratory tract and sinus infections.

- Marijuana smoking lowers the body’s immune system response, making users more susceptible to infection. The U.S. government is actively researching a possible
connection between marijuana smoking and the activation of AIDS in positive human immunodeficiency virus (HIV) carriers.

Pregnancy Problems and Birth Defects

- The active chemical, tetrahydrocannabinol (THC), and 60 other related chemicals in marijuana concentrate in the ovaries and testes.

- Chronic smoking of marijuana in males causes a decrease in sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics including breast development occurs in heavy users.

- Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone.

- Pregnant women who are chronic marijuana smokers have a higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life.

- In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, and liver and water on the brain and spine.

- Offspring of test animals who were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects of the infant's feet and hands.

- One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies.

- Fetal exposure may decrease visual functioning and causes other ophthalmic problems.

Mental Function

Regular use can cause the following effects:

- Delayed decision-making

- Diminished concentration

- Impaired short-term memory, interfering with learning

- Impaired signal detection (ability to detect a brief flash of light), a risk for users who are operating machinery

- Impaired tracking (the ability to follow a moving object with the eyes) and visual distance measurements
Erratic cognitive function
Distortions in time estimation

Long-term negative effects on mental function known as “acute brain syndrome,” which is characterized by disorders in memory, cognitive function, sleep patterns, and physical condition.

Acute Effects

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations
- Heavy sedation
- Immobility
- Mental dependency
- Panic
- Paranoid reaction
- Unpleasant distortions in body image.

Workplace Issues

- The active chemical, THC, stores in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance.

- A 500 to 800 percent increase in THC concentration in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 1978.

- Combining alcohol or other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effect of both the depressant and marijuana.
Opiates (Narcotics) Fact Sheet

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling.

Description

- Natural and natural derivatives—opium, morphine, codeine, and heroin
- Synthetics—meperidine (Demerol), oxymorphone (Numorphan), and oxycodone (Percodan)
- May be taken in pill form, smoked, or injected, depending upon the type of narcotic used.
- Trade/street names include Smack, Horse, Emma, Big D, Dollies, Juice, Syrup, and China White.

Signs and Symptoms of Use

- Mood changes
- Impaired mental functioning and alertness
- Constricted pupils
- Depression and apathy
- Impaired coordination
- Physical fatigue and drowsiness
- Nausea, vomiting, and constipation
- Impaired respiration.

Health Effects

- IV needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles.
- Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity.
- Narcotics' effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

Social Issues

- There are over 500,000 heroin addicts in the U.S., most of whom are IV needle users.
- An even greater number of medicinal narcotic-dependent persons obtain their narcotics through prescriptions.
• Because of tolerance, there is an ever-increasing need for more narcotic to produce the same effect.

• Strong mental and physical dependency occurs.

• The combination of tolerance and dependency creates an increasing financial burden for the user. Costs for heroin can reach hundreds of dollars a day.

Workplace Issues

• Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident.

• Narcotics have a legitimate medical use in alleviating pain. Workplace use may cause impairment of physical and mental functions.
Phencyclidine (PCP) Fact Sheet

Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a “freak out” in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

Description

- PCP is sold as a creamy, granular powder and is often packaged in one-inch square aluminum foil or folded paper “packets.”

- It may be mixed with marijuana or tobacco and smoked. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine.

- Trade/street names include Angel Dust, Dust, and Hog.

Signs and Symptoms of Use

- Impaired coordination
- Severe confusion and agitation
- Extreme mood shifts
- Muscle rigidity
- Nystagmus (jerky eye movements)
- Dilated pupils
- Profuse sweating
- Rapid heartbeat
- Dizziness.

Health Effects

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.

- PCP is potentiated by other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction.

- Misdiagnosing the hallucinations as LSD induced, and then treating with Thorazine, can cause a fatal reaction.

- Use can cause irreversible memory loss, personality changes, and thought disorders.

- There are four phases to PCP abuse. The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distance perception are common. The second phase, which
does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia, and agitation. The third phase is a drug-induced schizophrenia that may last a month or longer. The fourth phase is PCP-induced depression. Suicidal tendencies and mental dysfunction can last for months.

Workplace Issues

- PCP abuse is less common today than in recent years. It is also not generally used in a workplace setting because of the severe disorientation that occurs.
Appendix D: Employee Acknowledgment Form

ACKNOWLEDGMENT

I hereby acknowledge that I have received a copy of the City's Alcohol & Drug Testing Policy and Procedure.

________________________                      ______________________
Date                                           Employee's Signature

________________________
Employee's Name (Printed)

________________________
Employee's Social Security Number

Please sign and return this card to Risk Management
MODESTO CITY COUNCIL
RESOLUTION NO. 96-717


WHEREAS, the representatives of the City and the Modesto Police Officers Association (MPOA) met and conferred in good faith concerning wages, hours, and other terms and conditions of employment for employees represented by the MPOA which covers the Fiscal Years 1996-1997, 1997-1998, and 1998-1999, to December 20, 1999 of FY 1999-2000.

WHEREAS, the proposed Memorandum of Understanding (MOU) between the City and the MPOA was considered by the Council at its meeting of December 16, 1996,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Memorandum of Understanding between the City of Modesto and the Modesto Police Officers Association for Fiscal Years 1996-1997, 1997-1998, and 1998-1999, to December 20, 1999, of FY 1999-2000, is hereby approved. A copy said MOU is on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams

JEAN ADAMS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 96-718

A RESOLUTION APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF MODESTO AND PURKISS ROSE-RSI FOR THE DESIGN OF A SKATEBOARD PARK

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement for professional services between the City of Modesto and Purkiss Rose-RSI for the design of a skateboard park be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement for professional services by the designated city officials be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: Jean Adams
JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-719

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF STANISLAUS COUNTY FOR SPECIAL POLICE SERVICES TO THE WESTVIEW GARDENS HOUSING PROJECT

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and the Housing Authority of Stanislaus County for Special Police Services to the Westview Gardens Housing Project be, and it is hereby approved.

BE IT FURTHER RESOLVED that the execution of said agreement for services by the designated city officials be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________
JEAN ADAMS, City Clerk
A RESOLUTION APPROVING AN APPROPRIATION TRANSFER OF $42,900 TO FULLY FUND PURCHASE OF FOUR FLAP GATE CHECK VALVES

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

FROM: 621 480 D321 6040, $2,900
    Variable Speed Influent/Effluent Pumps

TO:   621 480 F720 6070, $2,900
    Effluent Pump Check Valve Replacement

Cost increases during period of performance testing of alternatives.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Adams
        JEAN ADAMS, City Clerk
A RESOLUTION APPROVING THE FINAL MAP OF THE
NOTTINGHAM PLACE PHASE 2 SUBDIVISION OF THE
CITY OF MODESTO.

WHEREAS, Stewart W. Bradley and Betty J. Bradley is
possessed of a tract of land situate in the City of Modesto,
County of Stanislaus, consisting of 6.55 acres, known as
Nottingham Place Phase 2 Subdivision, and

WHEREAS, a tentative map of said tract was approved by
the City Council of the City of Modesto on the 27th day of
November, 1995, 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 Nottingham Place Phase 2
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
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 subdividers have 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 Agreement hereinafter referred to.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdividers as required by Section 4-4.604(c) of the Modesto Municipal Code.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Friedman, who moved its adoption, which motion being duly seconded by Councilmember Dobbs, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By

MICHAEL D. MILICH, City Attorney

ATTEST: JEAN ADAMS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 96-722

A RESOLUTION APPOINTING MEMBERS OF THE CITY COUNCIL TO THE GOVERNING BOARD OF THE CITY-COUNTY CAPITAL IMPROVEMENTS AND FINANCING AGENCY

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

SECTION 1. Mayor Lang and Councilmember Friedman are hereby appointed to serve on the governing board of the City-County Capital Improvements and Financing Agency, with Councilmember Dobbs appointed as an alternate to said Agency.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the governing board of the City-County Capital Improvements and Financing Agency, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 16th day of December, 1996, by Councilmember Serpa, who moved its adoption, which motion being duly seconded by Councilmember McClanahan, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Fisher, Friedman, McClanahan, Serpa, Mayor Lang

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN ADAMS, City Clerk