MODESTO CITY COUNCIL
RESOLUTION NO. 2009-228

A RESOLUTION APPROVING RUN-OFF ELECTION PROCEDURES AND DIRECTING THE CITY CLERK TO FOLLOW THE PROCEDURES IN CONDUCTING ANY REQUIRED RUN-OFF ELECTION FOLLOWING THE REGULAR MUNICIPAL ELECTION IN NOVEMBER 2009, AND DIRECTING THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE EVENT THAT THE DECEMBER 2009 RUN-OFF ELECTION "FAILS"

WHEREAS, after considering the options of whether the County Clerk-Recorder or the City Clerk should conduct the December 8, 2009 run-off election, the Finance Committee at its March 23, 2009 meeting recommended to the City Council that the City Clerk conduct the run-off, and

WHEREAS, the City Council adopted Resolution No. 2009-206 directing the City Clerk to conduct the December 8, 2009 run-off election, and

WHEREAS, the City Council authorized a contract with Martin & Chapman for election services to assist the City Clerk in conducting the 2009 run-off election, and

WHEREAS, it is prudent and necessary for the City Council to approve run-off election procedures to guide the City Clerk in conducting the December 2009 run-off election in the event one is necessary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the run-off election procedures set forth in the staff report to the City Council dated June 2, 2009, and the City Clerk is authorized and directed to follow said procedures in conducting the run-off election.

BE IT FURTHER RESOLVED that the City Attorney is directed to file the litigation described in said staff report in the event the December 2009 run-off election
“fails.” (A copy of the staff report is attached as Exhibit “A” and incorporated herein by reference.)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
TO: Mayor and City Council
FROM: Stephanie Lopez, City Clerk
SUBJECT: December 2009 Run-Off Election Procedures
CONTACT: Stephanie Lopez, City Clerk, slopez@modestogov.com, 577-5396

DESCRIPTION:
Consider approving run-off election procedures and calling for a special election to be held on January 26, 2010 for the purpose of holding a run-off election that might otherwise have been held on December 8, 2009 in the event the December 2009 run-off election “fails.” (Funding Source: Elections Fund)

FISCAL IMPACT:
If a special run-off election is required, it is estimated that an additional $150,000 will be needed to cover costs.

BACKGROUND:
The City Council has directed the City Clerk to conduct the December 8, 2009 run-off election.

The County Clerk-Recorder will be conducting the November 3, 2009 Municipal Election and it is anticipated that the office will use the entire 28-day canvassing period allowed under the law for that election. In the event the full 28-day period allowed by law is utilized, there will not be sufficient time to mail the run-off ballots to voters 10 days prior to the run-off date as required by the Elections Code. It is therefore recommended that the City Council approve the following run-off election procedures:

SELECTION OF RUN-OFF CANDIDATES:

- Establish November 9, 2009, at 5:00 p.m. as the date and time when the top two candidates will be chosen for purposes of printing the run-off ballots in those races where it appears that a run-off will be necessary. In those races where any candidate has more than 50% of the votes cast as of that date and time, no run-off ballots will be printed. The determinations provided for in this paragraph will be made based on the vote tabulation printed by the County Elections Office at that date and time.

- Immediately after the above determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.
• Prior to November 9, 2009, the City shall have caused the necessary mail ballot envelopes and any other election supplies to have been printed utilizing the services of the election supplier previously chosen by the City Council as set forth in Resolution No. 2009-____.

• In the event the County Clerk-Recorder does not utilize the full 28-day canvassing period and the certified election results show that the incorrect names were chosen pursuant to the procedure set forth above, then the following action shall be taken depending on at what point in the process the canvass is made:
  
  ♦ If the canvass is made prior to the mailing of the ballots then, provided there is sufficient time in the opinion of the election supplier, the City Clerk shall request an emergency reprint and incur any necessary additional cost and mail out the reprinted ballots prior to the 10-day deadline mandated by state law, or if there is not sufficient time to meet the 10-day deadline, the election shall be deemed to have “failed” and the City Attorney shall proceed with the litigation outlined below.

  ♦ If the canvass of the County Clerk-Recorder shows that the incorrect names were chosen pursuant to the procedure outlined above and the ballots have already been mailed, then the run-off shall be deemed to have “failed,” and the City Attorney shall proceed with the litigation outlined below.

LITIGATION:

• In the event said run-off is deemed to have “failed” pursuant to these procedures, then the City Attorney is hereby directed to file an action in Superior Court to do the following:
  
  ♦ Obtain an order prohibiting the City Clerk from canvassing the December 8, 2009, run-off election.

  ♦ Declare the December 8, 2009, run-off election nullified.

  ♦ Request the Court to retain jurisdiction until the run-off election results are certified

DECISION TREE:

• Pursuant to these procedures there are two (2) possible scenarios which are summarized in the attached “Decision Tree.”

• Pursuant to the procedures set forth above, if the City Clerk has printed and mailed ballots with incorrect names chosen, it will be necessary to call a special election for the purpose of holding the run-off. The agreed upon date to hold an election with Martin and Chapman is January 26, 2010. This date will allow adequate time to reprint and mail new ballots. It is recommended that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

In the past, in order to avoid allegations of conflict of interest, it has been recommended that Councilmembers running for re-election abstain from voting on this matter. The precedent for
this is the fact that Councilmembers Friedman and Smith abstained during actions taken related to the “failure” of the 2001 run-off election, Mayor Sabatino and Councilmember Conrad abstained from voting on this matter during actions related to the 2003 run-off election, and Councilmembers Jackman, Keating and O’Bryant abstained from voting on this matter during actions related to the 2005 run-off election. However, in 2007, there was the possibility of all four incumbents running for re-election and that there would not be a quorum to vote; therefore, all Councilmembers, including the Mayor, voted. In order to avoid allegations of conflict of interest, it is recommended that Councilmember Olsen abstain from voting on this matter.

COMMITTEE RECOMMENDATION:
This item did not go to Committee.

STRATEGIC PLAN ELEMENT:
Not Applicable.

RECOMMENDED COUNCIL ACTION:
Resolution approving run-off election procedures and directing the City Clerk to follow the procedures in conducting any required run-off election following the regular municipal election in November 2009, and directing the City Attorney to file an action in Superior Court in the event that the December 8, 2009 run-off election “fails.”

Resolution calling for a special election to be held on January 26, 2010 for the purpose of holding a run-off election that was previously scheduled for December 8, 2009.

Approved by:

Stephanie Lopez, City Clerk

Greg Nyhoff, City Manager

Attachments: Resolutions (2)
Decision Tree
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-229

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON JANUARY 26, 2010 FOR THE PURPOSE OF HOLDING A RUN-OFF ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR DECEMBER 8, 2009

WHEREAS, in the event the December run-off election “fails,” it will be necessary to reschedule the run-off election, and

WHEREAS, the City Council determines that the run-off election should be held on the 4th Tuesday in January 2010,

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

1. That the City Council orders the City Clerk to submit the run-off election previously scheduled for December 8, 2009, to the voters on January 26, 2010.

2. The City Council hereby requests Martin & Chapman to provide election services for the purpose of holding a run-off election that was previously scheduled for December 8, 2009, to elect members of Council for the Districts 2, 4 and 5.

3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

4. This resolution shall only be effective in the event incorrect names for the run-off ballots were chosen; and, the Superior Court issues an Order prohibiting the City Clerk from canvassing the December 8, 2009, run-off election; and, the Superior Court issues an Order nullifying the December 8, 2009, run-off election.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-230

A RESOLUTION REJECTING ALL BIDS FOR THE PROJECT TITLED, "TRAFFIC OPERATIONS BUILDING–TENANT IMPROVEMENTS," AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE WHEN ECONOMIC CONDITIONS IMPROVE AND FUNDS BECOME AVAILABLE FOR THIS PROJECT

WHEREAS, this project, if approved and funded, would install tenant improvements at 117 Elm Street for the Traffic Operations Section, and

WHEREAS, bids for this project were opened on March 11, 2009, and

WHEREAS, Harris Builder, Inc., was determined to be the responsible low bidder, and

WHEREAS, staff recommends rejecting these bids and delaying this project to a future date due to funding constraints in the Surface Transportation fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves rejecting all the bids for the project titled, "Traffic Operations Building–Tenant Improvements."

BE IT FURTHER RESOLVED that staff is authorized to re-advertise the project at a future date when economic conditions improve and funds become available for this project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, Proposition IV of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year, and

WHEREAS, Article XIIIIB of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the attached schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of “state growth in per capita income” and the population factor of “growth rate in Stanislaus County”, and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on Schedule A, attached hereto, and made a part hereof.

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 2nd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
FY2009-2010

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2008-2009 Appropriation Limit $335,470,430

Adjustment Factors

Per Capita Personal Income Change 0.62%
Population Change (Stanislaus County) 1.11%

Per Capita converted to a ratio 1.0062
Population converted to a ratio 1.0111

Calculation of factor for FY2008-2009 1.0174

Adjustment $5,837,185

FY2009-2010 Appropriation Limit $341,307,615

Article XIIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, intere

Appropriations from nontax revenues, including the City’s enterprise funds, are not subject to the limit.
RESOLUTION AUTHORIZING STAFF TO SUBMIT A REQUEST FOR PROPOSAL (RFP) APPLICATION FOR THE CITY OF MODESTO TO APPLY TO BECOME A HOST CITY FOR THE 4TH ANNUAL AMGEN TOUR OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS

WHEREAS, each February for the past three years the Amgen Tour of California has swept through California for eight to nine days generating over $100 million of economic impact to the host cities and the State with over one billion marketing impressions created worldwide, and

WHEREAS, Modesto was the Host City for the Stage 3 Start of the 2nd Annual Amgen Tour of California on February 20, 2008, and the Host City for the Stage 3 Finish of the 3rd Annual Amgen Tour of California on February 17, 2009, and

WHEREAS, the City of Modesto received lavish praise from local residents and from race officials and participants, and staff has been encouraged to submit a Request for Proposal (RFP) application to again become a Host City for the 4th Annual Amgen Tour of California in May 2010, and

WHEREAS, the Amgen Tour of California has posted their RFP application for response from cities who wish to be considered as a Host City for the 4th Annual Amgen Tour of California in May 2010, and

WHEREAS, the City of Modesto would like to become a Host City for the Amgen Tour of California in May 2010, and

WHEREAS, the City of Modesto has read the requirements exhibited in Amgen’s RFP and agrees to abide by the requirements,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to submit a Request for Proposal (RFP) application for the City of Modesto to apply to become a Host City for the 4th Annual Amgen Tour of California.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to sign the application and related documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned event upon acceptance of said RFP by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
WHEREAS, despite recommended reductions in the proposed interim budget,
revenues in the City's General Fund are approximately $5.8 million short of the
recommended 7% reserve for FY 09-10, and

WHEREAS, the City is seeking employee concessions as part of the effort to
balance the City budget, and

WHEREAS, Unrepresented employees and Charter Officers have further agreed
to take 96 hours of unpaid furloughs, and

WHEREAS, Unrepresented employees and Charter Officers have agreed to forgo
cashout of Management Leave and Confidential Leave for 2009, and

WHEREAS, several benefits previously authorized by Council have not been
reflected in the comprehensive resolution,

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

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City’s
contribution to health, dental and vision benefits for Unrepresented Management and
Confidential employees, including Charter Officers and Executives, is hereby designated
to be the following:
City Contribution - Sworn and Non-Sworn

Effective July 22, 2008

<table>
<thead>
<tr>
<th>Category</th>
<th>Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>$957/month</td>
</tr>
<tr>
<td>Employee Only</td>
<td>$570/month</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$425/month</td>
</tr>
</tbody>
</table>

The City shall deposit into the employee’s deferred compensation account any balance remaining from the above listed contributions not needed to pay for the employee’s health, dental or vision premiums. Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, any balance of said contributions shall be directed to the employee’s Health Savings Account.

Effective July 26, 2005, the City’s contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

Effective July 26, 2005, the City’s contribution toward unrepresented employees with Employee Only coverage shall not be less than the actual premium amount for the lowest cost health, (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

SECTION 2. REGISTERED ENGINEER PAY. Effective January 6, 2009, those employees in the classifications of Deputy Director who possess a current registration as a Professional Civil or Traffic Engineer in the State of California shall no longer be eligible to receive 7.5% Registered Engineer Pay as the pay has been incorporated into the base pay for the classifications.
SECTION 3. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

<table>
<thead>
<tr>
<th>Positions</th>
<th>Effective Date</th>
<th>Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn Police</td>
<td>January 1, 2008</td>
<td>$94.00 (Per Reso. No. 2005-602)</td>
</tr>
<tr>
<td>Sworn Fire Management</td>
<td>July 1, 2007</td>
<td>$85.00</td>
</tr>
</tbody>
</table>

SECTION 4. DEFERRED COMPENSATION 401(a) MONEY PURCHASE PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

SECTION 5. COMPENSATORY TIME OFF CAP. Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 6. MANAGEMENT AND CONFIDENTIAL LEAVE. Management Leave for Management employees shall be 80 hours annually, effective January 1, 2002, except that for overtime-eligible Management employees the annual allocation shall be 40 hours effective calendar year 2006. For Fire Battalion Chiefs on a 56-hour schedule, the annual allocation of Management Leave shall be 112 hours, and for Confidential employees Leave shall be 20 hours annually, effective January 1, 2002.

An employee hired after Management/Confidential Leave has been advanced for
the calendar year shall be eligible for a pro-rated portion of Leave. In the event of separation from City employment of any person who has taken Management/Confidential Leave prior to the time all of said leave is earned, the employee shall be required to make full restitution to the City for that portion of leave taken but remaining unearned on the date of termination of employment. Employees separating from City service will be paid for earned Management Leave credit.

SECTION 7. MANAGEMENT AND CONFIDENTIAL LEAVE ANNUAL CASHOUT. The maximum number of hours available for cashout each December shall be 40 hours annually for Management employees, except that for overtime-eligible Management employees the maximum cashout shall be 20 hours effective calendar year 2006. Maximum annual cashout shall be 18 hours for Confidential employees.

Effective December 2007, the maximum annual cashout shall be 80 hours for Executives and Charter Officers, and 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney and Deputy City Attorney I/II/III/Senior. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cashout shall be 84 hours.

For calendar year 2009 no employee will be permitted to cashout Management or Confidential Leave.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand dollars ($1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who
shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee’s probation shall be extended until he/she has worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary
employee to work less than 1560 hours. In the event that an employee works less than 1560 hours during the twelve months following his/her promotion, then the employee’s probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY shall continue to provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee’s regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City’s contribution shall be effective with the first payperiod to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.
SECTION 13. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 14. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 15. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 16. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 17. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 18. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT
EMployees. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be afforded the opportunity to cashout up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

Section 19. Vehicle Allowance. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be $400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of $300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of $100-$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business. Effective May 27, 2008, per Resolution 2008-305 the vehicle allowance for Charter Officers is increased to a maximum of $500/month.

Section 20. Sick Leave Cashout for Sworn Fire Management Employees. Effective June 22, 1999, Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the first twenty-two hundred (2,200) hours of their current unused sick leave, reduced by hours previously converted to Deferred Compensation, as follows:
(1) Ninety (90%) percent of accrued sick leave hours as of the date of the employee's initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accruing after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

SECTION 21. FURLOUGH. Effective July 1, 2009, all employees shall be required to take 96 hours of unpaid furlough during fiscal year 2009-10. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be required to take 134.4 hours of unpaid furlough during fiscal year 2009-10. Employees hired or separating during the fiscal year will be required to take a prorated number of unpaid furlough hours.

SECTION 22. EMERGENCY MEDICAL TECHNICIAN CERTIFICATION PAY. Effective July 1, 1990, sworn Fire Management employees in the classifications of Fire Battalion Chief and Fire Division Chief who are certified as Medical First Responders, shall receive a monthly allowance equivalent to two and one-half percent (2.5%) of the base salary for their classification. Employees who are certified as Emergency Medical Technicians (EMT-I), shall receive a monthly allowance equivalent to four percent (4.0%) of the base salary for their classification. The EMT-I allowance shall be in lieu of the Medical First Responder allowance.

SECTION 23. MUTUAL AID ASSIGNMENT. Per Resolution 2001-485, effective September 25, 2001, Sworn Fire Management employees in the classification of Fire Battalion Chief and Fire Division Chief shall receive a stipend when assigned to fill Strike Team and Task Force Leader assignments. Fire Battalion Chiefs assigned as Strike
Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of $1000 for a 24 hour period. Fire Division Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of $1200 for a 24 hour period subject to the following conditions:

1. The assignment results from a request through the California Office of Emergency Services.
2. The assignment is subject to reimbursement through the “Cooperative Agreement for Local Government Fire Suppression”.
3. Regularly scheduled work hours are not included and partial periods are pro-rated to the nearest hour.

The City Manager is authorized to adjust the stipend amount, from time to time, consistent with increases in overall Fire Management salaries and reimbursement rates.

SECTION 24. ASSISTANT CHIEF OF POLICE ASSIGNMENT PAY.

Effective May 26, 1998, subject to the approval of the City Manager, the Police Chief may appoint employees currently employed by the Police Department in the classification of Police Captain to the assignment of Assistant Chief of Police. Such appointment may be made without competitive examination and shall continue at the will and pleasure of the Police Chief. The Police Chief may end the assignment at any time and such employee shall return to an assignment as Police Captain (unless removed due to dismissal) at a step no lower than the step the employee held at time of assignment.

The total number of assignments shall be at the sole discretion of the City Manager.
BE IT FURTHER RESOLVED, that the City continues to extend Severance Package upon layoff to represented employees as outlined in Attachment 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
Approval of Severance Package for Laid Off Employees

A recommended severance pay of 4-8 weeks of salary and health contributions would provide a limited cash payment and health coverage to assist the laid off employee faced with loss of job and income. The recommended interview leave would provide paid leave time for employees to seek other employment prior to their date of layoff. It is further recommended that the City Manager be authorized to postpone an employee's date of layoff or demotion for up to ninety (90) days at his discretion, if deemed necessary to meet the needs of the City.

Eligibility for Severance Pay: All non-sworn employees in regular positions in the classified service shall be provided with severance pay when separating from City service due to an authorized reduction in force. An eligible employee shall be entitled to receive severance pay in addition to any other benefits to which he/she may be entitled under the provisions of the Personnel Rules or appropriate Memorandum of Understanding.

Severance pay in the amount of two (2) pay periods (four weeks) base salary shall be paid to an eligible employee upon separation due to layoff. Such pay shall be calculated based upon the employee's regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

In addition, employees with six (6) or more full years of service are eligible for additional severance pay as follows: Employees with six (6) to eight (8) years of services would receive on additional week of severance pay for a total of five (5) weeks, employees with nine (9) to eleven (11) years of service would receive two additional weeks of severance pay for a total of six (6) weeks, employees with twelve (12) to fourteen (14) years of service would receive three additional weeks of severance pay for a total of seven (7) weeks and employees with more than fourteen (14) years of service would receive a total of eight (8) weeks of severance.

At time of separation, an employee shall have the option to receive severance pay in a lump sum payment or in the form of a contribution of equal value by the City to the employee's deferred compensation plan, subject to all appropriate IRS regulations and limitations.

Eligibility for Health Contribution: Employees who receive severance pay shall also be eligible to receive the City's contribution to health, dental and vision premiums for a period of four (4) to eight (8) weeks following layoff. The amount of this contribution shall be the same as that provided to active employees, except that the amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision (4-8 weeks depending on years of service). The contribution shall be paid directly to the insurance carriers.

Eligibility for Counseling Benefit: Employees who receive severance pay shall also be eligible for an extension of the City's Employee Assistance Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

AR Attachment 1
Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service shall be eligible for interview leave upon notification by their Department Director that they may be laid off. Employees who elect to bump down or demote to a vacancy in lieu of layoff are also eligible for interview leave.

An eligible employee may be granted up to fifteen (15) hours of paid leave for the purpose of participating in employment interviews or examinations with other employers.

As with other leave requests, interview leave is subject to approval, in advance, by the supervisor. Employees must provide supervisors with sufficient advance notice of such a leave and employees may be required to provide verification of the scheduled interview or examination. Interview leave in excess of fifteen hours may be granted with the written approval of the Department Director. Interview leave is not subject to cash out or conversion to any other benefit.

Voluntary Layoff: If an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff due to an authorized reduction in force, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits.

Expiration: Eligibility for severance pay, health benefit contributions and interview leave shall terminate January 30, 2009, unless extended by the City Council.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-234

A RESOLUTION AMENDING THE 2008-09 GENERAL FUND BUDGET TO REFLECT CHANGES IN REVENUE AND EXPENSE ASSUMPTIONS SINCE THE LAST UPDATE AND THE COSTS ASSOCIATED WITH ADOPTED POLICY ITEMS APPROVED AS PART OF THE ADOPTION OF THE 2009-10 PROPOSED OPERATING BUDGET

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget for the 2009-10 Fiscal Year to the Finance Committee at workshops held during the week of May 18, 2009, and

WHEREAS, during these workshops the Finance Committee was presented with a listing of recommended budget adjustments and policy issues affecting both the Proposed 2009-10 Fiscal Year budget and the 2008-2009 fiscal year operating budget, and

WHEREAS, the Finance Committee approved these changes and policy issues for consideration by the full City Council during its regularly scheduled meeting held on June 2, 2009,

WHEREAS, the City Council has considered the policy recommendations and budget adjustments brought before it and has approved these items and desires to have them incorporated into the Fiscal Year 2008-2009 operating budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2008-2009 Operating Budget as shown in Exhibit A which is incorporated by reference herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

ATTEST: [Signature]

STEFHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
General Fund

Revenue:
0100-510-9510-8101R Property Sales ($215,000)
  Reflect adjustment for anticipated sale of 412 Downey
0100-300-3020-8119 Insurance Settlement $3,075,000
  Reflect settlement on Morris Ave. Community Center

Expenses:
0100-510-9510-0168 Leave Reimb. ($500,000)
  Reflect holiday from payment of annual leave costs
0100-300-3020-5900 $ 48,446
  Payment to Insurance Arbitrator for Morris Ave. Settlement

Employee Benefit Fund

Expenses:
Severance Packages $ To be determined*
Voluntary separation leave payouts $ To be determined**
  Reflect use of EBF resources to cover these costs for General Fund and other funds that cannot afford them

*Actual amounts for General Fund employees will be determined by values presented after all voluntary separations have been processed. It is estimated at this time that the total cost will be approximately $1.3 million

**Actual amounts for General Fund employees will be determined by values presented after all voluntary separations have been processed. It is estimated at this time that the total cost will be approximately $922,000.00
A RESOLUTION APPROVING BUDGET GOALS AND BUDGET PRINCIPLES AS OUTLINED IN THE MAYOR'S BUDGET MESSAGE AND RECOMMENDED BY THE CITY COUNCIL FINANCE COMMITTEE AS PART OF THE FY 2009-10 BUDGET DEVELOPMENT PROCESS

WHEREAS, as part of the Mayor's Proposed Budget for FY 2009-10, the Mayor included Proposed Budget Goals and Budget Principles for the Council's consideration, and

WHEREAS, each year the City Council's Finance Committee makes recommendations regarding the upcoming Fiscal Year operating budget and capital improvement program, and

WHEREAS, in the development of the FY 2009-10 operating budget, the Finance Committee reviewed and recommended for City Council consideration the attached Proposed Budget Goals and Budget Principles,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Proposed Budget Goals and Budget Principles as shown in Exhibits 1 and 2, which are incorporated by reference herein.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
FY 2009-10 Proposed Budget Goals

**Focus resources on vital public services.** In keeping with this goal, I will be convening a special workshop of the City Council later this summer to develop an organization vision and mission statement. This is in keeping with the Charter amendments approved by voters in February and will provide direction for future budget decisions. Additionally, I am seeking the Council’s commitment to place a measure on the November 2009 ballot that will provide a long-term stable source of funding for public safety which will include youth programs designed to catch our youth before they have chosen a life with gangs, crime, and drug usage.

**Begin efforts which will result in long-term structural budget changes.** We need to change the current dynamic of making service cuts each year only to turn around and do it again the following year. To that end I am calling for a community-wide budget survey and a series of “Town Hall Meetings” this fall to assure we elicit community participation in the budget process and that we understand the community’s priorities.

**Reduce deferred maintenance.** Master Plans are now in place for the water and wastewater utilities. The Stormwater Master Plan is moving toward completion. We must fund these utilities at adequate levels to ensure not only appropriate operations and maintenance efforts, but also a commitment to infrastructure improvements. Likewise, we must focus our efforts on rebuilding our roads, parks, and public facilities. The City of Modesto, and our neighboring communities, has a tremendous opportunity later this fall as voters consider the half-cent sales tax for transportation. We can no longer rely on financial crumbs coming from the state and federal government. We need to take more control of our own financial destiny and to do that we must have control of our financial resources.

**Increase the City’s economic opportunities.** We must find a way to complete the comprehensive update of the General Plan. I know this is a controversial item, but the General Plan is the City’s fiscal planning tool. Proper land use planning including transportation and utilities, positions the City to respond appropriately and effectively to development opportunities when they arise. In order for this community to retain its economic competitiveness we must ensure that the backbone infrastructure is there when economic opportunities are presented. We must plan for a successful future. We do that through comprehensive planning efforts. We do that through ensuring funding is available when it is needed.
Recommended Budget Principles

1. Annually Adopt a Structurally Balanced Budget
A structurally balance budget means on-going revenues and on-going expenditures are in balance with on-going revenues meeting or exceeding expenditures during the same time period. If a structural imbalance occurs, a plan must be developed and implemented to bring the budget back into balance.

2. Use of One-Time Resources
Once brought into balance, one-time revenues (excess reserves about reasonable risk calculations, revenue spikes, prior year budget savings, sale of property, etc) shall not be used for current or new on-going operating costs. Examples of appropriate uses of one-time revenues include early retirement of debt, capital expenditures without significant operating or maintenance costs, and other non-reoccurring expenditures.

3. Budget Revisions
New programs, services, or staffing requests are considered in light of the Council's priorities and shall include a spending offset at the time of the request so that the request has a net-zero impact on the budget.

4. Reserves
All City funds must maintain an adequate reserve level and/or ending fund balance as determined annually as appropriate for each fund. For the General Fund, the contingency reserve amount, which a minimum of 8% of the operating budget shall be maintained. Any use of the General Fund contingency reserve will require a majority vote of the Council.

5. Debt Issuance
Long-term General Fund debt will not be incurred to support on-going operating costs (other than debt service) unless such issuance achieves net operating cost savings and such savings can be independently verified. All General Fund debt issuances shall identify a method of repayment or have a dedicated revenue source.

6. Employee Compensation
Recognizing that employees are the City's major resource, negotiations for employee compensation shall focus on the total compensation costs (e.g. increases in salary, steps, and benefit costs) while considering the City's fiscal condition, revenue growth, and changes in the cost of living.

7. Capital Improvement Projects
Capital Improvement Projects shall not proceed for projects with annual operating and maintenance costs in the General Fund without City Council certification that funding will be available in the applicable year of the cost impact. Certification shall demonstrate that the entire cost of the project, including operating and maintenance costs, will not require a decrease in the City's core services.

8. Fees and Charges
The development of fees and fee increases shall be utilized where appropriate to assure fee program costs are fully recovered by fee revenue.

9. Grants
Staff will seek out, apply for, and effectively administer grants that address the City’s priorities, policy objectives, and provide an overall positive benefit to the City. Before a grant is pursued, staff shall provide a detailed fiscal analysis addressing both the immediate and long-term costs and benefits of the grant. With the exception of pilot projects, one-time grant revenues shall not be used to begin or support the costs of ongoing programs.

10. General Plan
The General Plan is the primary long-term fiscal planning tool. Recommendations to create new development capacity beyond the existing General Plan shall be analyzed to ensure that capital improvements and operating/maintenance costs are within the City’s financial capabilities.

11. Performance Measurement
All requests for funding shall include performance measure data so funding requests can be reviewed and approved in light of anticipated service level outcomes.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-236

A RESOLUTION ESTABLISHING NEW RATES AT THE MUNICIPAL NINE-HOLE GOLF COURSE, THE DRYDEN PARK MUNICIPAL GOLF COURSE AND THE CREEKSIDE MUNICIPAL GOLF COURSE, ESTABLISHING NEW RATES FOR ANNUAL PASSES, ESTABLISHING NEW RATES FOR HIGH SCHOOL ROUNDS AND TOURNAMENT PLAY, AND RESCINDING RESOLUTION NO 2004-566

WHEREAS, on May 25, 2004, the City Council adopted Resolution No. 2004-566 which increased green fees at Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course and Creekside Golf Course, and

WHEREAS, Resolution No. 2004-566 also established new rates for annual passes, high school rounds and tournament play, and

WHEREAS, City staff is recommending a green fee rate increase at the Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course, and Creekside Municipal Golf Course, an increase in the price of annual passes, and an increase in the price of high school rounds at City courses, and an increase in the tournament play fee schedule to help pay for the rising costs associated with operating the three golf courses, and

WHEREAS, the Golf Courses Committee met on May 5, 2009 and supported these proposed rate increases at the City’s Municipal Golf Courses, and

WHEREAS, the Finance Committee met on May 20, 2009 and supported increases in green fees and annual passes at all City Municipal courses, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 2, 2009, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing
of the Council was held for the purpose of receiving public comment on the proposed amended golf fees, and

WHEREAS, the Council of the City of Modesto finds that new increased fees for play need to be established at the Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course to help offset the rising costs of operating the golf courses, and

WHEREAS, the General Fund subsidy totaling $270,000.00 that was originally projected for the Fiscal Year 2009-2010 would be eliminated as the result of the adoption of these fees,

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

SECTION 1. RATES. The rates for players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on Exhibit "A" attached hereto.

The policies and rates for tournament players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on Exhibit "B" attached hereto.

SECTION 2. DISCOUNTS.

(a) School Golf Teams. School golf team passes are to be issued only upon presentation by holder of a current high school or college student body card and verification of golf team membership by the school golf coach. Students shall possess
and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility. Team members with team member passes must be accompanied by their respective golf coaches and shall play only between the hours of 2:00 p.m. and 5:00 p.m. during the spring golf season. The specific spring school golf team season will be set by the golf professional after receiving the schools' schedules of matches from each school coach. Green fees at the rate of $6.50 per round shall be implemented for high school and Modesto Junior College golf programs at the Modesto Nine Hole Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course.

(b) Junior Discounts. Junior discounts are to be given only to persons eighteen (18) years of age and younger any day after 12:00 noon. Juniors shall possess and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility.

(c) Senior/Junior/Disabled Discounts. Senior/Junior/Disabled discounts are to be given only to persons who are sixty-two (62) years of age or older or to those who are on disability retirement. Proof of age or proof of disability retirement must be displayed to obtain a Senior/Retired/Disabled discount. Discounts are good weekdays except for holidays.

Members of the five officially recognized golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Golf Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Thursday, excluding holidays.
(d) Valu-Play Cards. Golfers can purchase a weekday, 6-round Valu-Play (multiple play) card for Dryden/Creekside or Muni. Valu-Play Discounts are effective for sixty (60) days from the date of purchase except for the months of December, January and February. During this period multiple play cards will be good for the entire three months. Multiple play cards are not refundable or transferable. The multiple play card is not good on weekends or holidays.

(e) Special Rates. From time to time, the Recreation and Neighborhoods Director or his or her designee may provide up to a fifty percent (50%) discount off of daily greens fees. Such specials shall occur no more than twenty (20) days per month at each golf course.

(f) Family Tee Program. To promote family play, golfers may play from established “family tees” to be set no more than 175 yards from the greens at Municipal Nine-Hole Golf Courses. Rates for play are $7.50 weekdays and $8.50 weekends. All members of the foursome or group must use the family tees for this rate to be in effect.

(g) Play one round, get the second round at half price. This discount is good on the day and at the course on which the original full-fee round is played. The fee for the second round shall be one-half of the green fee in effect at the time the second round is played.

SECTION 3. COMPLIMENTARY TICKETS. Complimentary tickets without fee may be issued by or under the direction of the Golf Course Professional to visiting professionals or others, for services rendered to the golf course. Free play must be approved by the Parks, Recreation and Neighborhoods Director or designee.
SECTION 5. POLICY. In order for fees to be consistent and competitive with other courses in the valley, the Play Day Policy for Play at the City's Municipal Golf Courses by Non-Affiliated Groups shall continue to be implemented as set forth on Exhibit "C" attached hereto.

SECTION 6. HOLIDAYS. "Holidays", as used herein, shall mean New Year's Day (January 1st), Martin Luther King's Birthday (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4th), Labor Day (the first Monday in September), Veterans Day (November 11th), Thanksgiving Day (the fourth Thursday in November) and the day after Thanksgiving. When a holiday falls on Sunday, the following Monday shall be observed as a holiday. When a holiday falls on Saturday, the preceding Friday shall be observed as a holiday.

SECTION 9. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2009.

SECTION 10. REPEALS. Resolution Nos. 2004-566 is hereby rescinded effective June 30, 2009

The General Fund subsidy originally identified in the proposed Fiscal Year 2009-2010 budget is hereby cancelled.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
# CITY OF MODESTO GOLF COURSES

## GREEN FEE SCHEDULE

**EFFECTIVE JULY 1, 2009**

### DRYDEN PARK MUNICIPAL GOLF COURSE

<table>
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<th>Description</th>
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<tbody>
<tr>
<td>Weekdays, 9-holes</td>
<td>$16.50</td>
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<td>Weekdays, 9-holes (seniors/juniors/disabled)</td>
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<tr>
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<tr>
<td>Weekdays Mid-day, 18-holes</td>
<td>$18.50</td>
</tr>
<tr>
<td>Weekdays Super-Twilight, 18-holes</td>
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<tr>
<td>Weekdays afternoon League Play</td>
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<table>
<thead>
<tr>
<th>Description</th>
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<tr>
<td>First Tee Member, 9-holes</td>
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<tr>
<td>First Tee Member, 18-holes</td>
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<tr>
<td>6-play Valu-Play booklet (seniors/juniors/disabled)</td>
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### CREEKSIDE MUNICIPAL GOLF COURSE

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<tr>
<td>Weekdays afternoon League Play</td>
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<tr>
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MODESTO NINE HOLE MUNICIPAL GOLF COURSE (MUNI)

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<td>Weekdays Super-Twilight, 9-holes</td>
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<tr>
<td>Weekdays afternoon League Play</td>
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<td>Weekdays/Holidays Mid-day, 9-holes</td>
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<tr>
<td>Weekdays/Holidays Super-Twilight, 9-holes</td>
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<table>
<thead>
<tr>
<th>Days</th>
<th>Packages</th>
<th>Prices</th>
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</thead>
<tbody>
<tr>
<td>First Tee Member, 9-holes</td>
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<tr>
<td>6-play Valu-Play booklet</td>
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MUNICIPAL NINE-HOLE GOLF COURSE, DRYDEN PARK MUNICIPAL GOLF COURSE AND CREEKSIDE MUNICIPAL GOLF COURSE

*Annual Club Membership, Initial Membership | $150.00
*Annual Club Membership, Every Day        | $1175.00
*Annual Club Membership, Every Day, Jr./Sr. | $1030.00
*Annual Club Membership, Every Day, Family | $1,750.00
*Annual Club Membership, Every Day, Family, Jr./Sr. | $1,535.00
*Annual Club Membership, Week Day          | $960.00
*Annual Club Membership, Week Day, Jr./Sr. | $805.00
*Annual Club Membership, Week Day, Family  | $1,430.00
*Annual Club Membership, Week Day, Family, Jr./Sr. | $1,210.00

*At Dryden Park Municipal Golf Course and Creekside Municipal Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 1:00 p.m. during Daylight Savings Time and 12:00 Noon during Standard Time on Saturdays, Sundays, and Holidays. At Municipal Nine-Hole Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 10:00 a.m. year-round on Saturdays, Sundays, and Holidays.
# Tournament Fee Schedule and Policy

**Effective July 1, 2009**

## Fee Per Player

<table>
<thead>
<tr>
<th></th>
<th>Regular Tee Time Style</th>
<th>Full Shotgun Tee Time Style</th>
<th>Modified Shotgun Tee Time Style</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Creekside</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weekday</td>
<td>$42.50</td>
<td>$50.50</td>
<td>$50.50</td>
</tr>
<tr>
<td>Weekends</td>
<td>$49.50</td>
<td>$58.50</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Dryden</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weekday</td>
<td>$40.50</td>
<td>$48.50</td>
<td>$48.50</td>
</tr>
<tr>
<td>Weekends</td>
<td>$46.50</td>
<td>$55.50</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Muni</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weekday</td>
<td>$32.50</td>
<td>$38.50</td>
<td>N/A</td>
</tr>
<tr>
<td>Weekend</td>
<td>$34.50</td>
<td>$40.50</td>
<td>N/A</td>
</tr>
</tbody>
</table>

In addition, a non-refundable deposit of $50.00 per tournament is required.

Regular tee time style tournaments require a minimum of 28 players. Per player fees include: green fees ($24.50 weekdays/$31.50 weekends at Creekside, $22.50 weekdays/$28.50 weekends at Dryden and $14.50 weekdays/$16.50 weekends at Muni); and Pro Shop merchandise credit ($9.00 at Creekside/Dryden/Muni); and golf course restaurant credit ($9.00 at Creekside/Dryden/Muni).

Full shotgun tee time style tournaments require a minimum of 120 players at Creekside/Dryden and a minimum of 72 players at Muni. Per player fees include: green fees ($28.50 weekdays/$36.50 weekends at Creekside, $26.50 weekdays/$33.50 weekends at Dryden and $16.50 weekdays/$18.50 weekends at Muni); Pro Shop merchandise credit ($11.00 at Creekside/Dryden/Muni); and golf course restaurant credit ($11.00 at Creekside/Dryden/Muni). Cart rental is required for shotgun style tournaments.

Modified shotgun tee time style tournaments require a minimum of 72 players at Creekside/Dryden. Per player fees include: green fees ($28.50 weekdays at Creekside; $26.50 weekdays at Dryden); Pro Shop merchandise credit ($11.00 at Creekside/Dryden); and golf course restaurant credit ($11.00 at Creekside/Dryden). Cart rental is required for modified shotgun style tournaments. Modified shotgun style tournaments are not available at Muni.

Members of the five officially recognized affiliated golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Friday, excluding holidays.
PLAY DAY POLICY 
FOR PLAY AT THE CITY'S 
MUNICIPAL GOLF COURSES 
BY NON-AFFILIATED GROUPS 

The following policy is hereby established for Non-Affiliated Groups to encourage their use of the City's municipal golf courses:

Criteria for these groups are:

1. They are a group with an identification or organizational structure;

2. They commit to use the City's golf course(s) on a regular basis (weekly, bi-weekly, monthly, etc.);

3. They have a minimum of twenty-four (24) players;

4. Regular tee-time style starting will be used (no shotgun style starting will be allowed);

5. Their events do not promote a formal competition or championship; and

6. Play days will be restricted to Monday through Wednesday after 9:00 a.m.

In recognition of their contribution to the golf program, no mandatory pro shop or restaurant fees will be assessed. Tee time reservations, in advance of public reservations, will be allowed.
A RESOLUTION APPROVING A FOURTH AMENDMENT TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) ANNUAL ACTION PLAN FOR FISCAL YEAR 2008-2009, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

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

WHEREAS, the Modesto City Council, on May 6, 2008, by Resolution No. 2008-267, approved the adoption of the 2008-2009 HUD Annual Action Plan, and

WHEREAS, a Fourth Amendment to the Annual Action Plan is attached as Exhibit “1” and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the Fourth Amendment to the Annual Action Plan, and to provide a seven-day comment period, which began May 22, 2009, and ended on June 2, 2009, and

WHEREAS, a duly noticed public hearing was held by the City Council on June 2, 2009, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the Fourth Amendment to the 2008-2009 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Fourth Amendment to the 2008-2009 HUD Annual Action Plan, a copy which is attached hereto as Exhibit “1” and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’ Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
<th>Activity/Name</th>
<th>Activity Description</th>
<th>Eligibility</th>
<th>National Objective Citation</th>
<th>CDBG-R Project Budget ($)</th>
<th>Additional Recovery Funds ($)</th>
<th>Other Leveraged Funding ($)</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin</td>
<td>Planning, administration and oversight of CDBG-R Activities</td>
<td></td>
<td>Regulatory</td>
<td>$63,175</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Service</td>
<td>Offer programming around job search and interview skills development. This program will assist citizens with ways to search for jobs as well as how to present ones' self in an interview and practice questions and appropriate responses. This public service</td>
<td>Regulatory</td>
<td>LMC</td>
<td>$94,762</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Energy Efficient Improvements</td>
<td>Offer grants to local businesses for energy efficient and façade improvements. This funding will provide a source for local businesses to upgrade their buildings with energy efficient products. This will lower their overall utility bills while decreasing</td>
<td>Regulatory</td>
<td>LMC</td>
<td>$200,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Energy Efficient Improvements</td>
<td>Upgrade public buildings with energy efficient features. Install energy efficient foam roofs on city owned buildings at the Corporation Yard and at the Centre Plaza. Quotations have been received for the above projects.</td>
<td>Regulatory</td>
<td>LMC</td>
<td>$273,812</td>
<td>$787,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-238

A RESOLUTION APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT (AGREEMENT) BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO (AGENCY) AND EAH, INC. (DEVELOPER) TO ENCUMBER AN ADDITIONAL AMOUNT OF $3,249,000 FOR THE PROPOSED DEVELOPMENT OF A 150-UNIT AFFORDABLE HOUSING COMPLEX, ALSO REFERRED TO AS ARCHWAY COMMONS

WHEREAS, the Redevelopment Agency of the City of Modesto (the “Agency”) is carrying out the Redevelopment Plan for the Modesto Redevelopment Project (the “Redevelopment Project”), and

WHEREAS, in conformance with Health and Safety Code Section 33490, the Agency adopted a five-year Implementation Plan (the "Implementation Plan") for the Redevelopment Project, and

WHEREAS, on April 29, 2009, by Resolution No. 10-2009, the Agency approved a Purchase Agreement to acquire three (3) of four (4) parcels (the "Site") needed for the development of an affordable housing apartment complex referred to as Archway Commons (the "Housing Project"), and by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusively ("ANE") with EAH Inc. ("Developer") to negotiate the terms and provisions of an agreement for the development of the Housing Project, and

WHEREAS, a Purchase Agreement is expected to be presented to the Agency at its meeting on June 2, 2009, for the acquisition of the fourth (4th) parcel needed for the Housing Project, and

WHEREAS, the Agency closed escrow on the first three (3) parcels of the Site on May 21, 2009, and is expected to close escrow to acquire the fourth parcel by the end of July 2009, and
WHEREAS, the Agency has received a Disposition and Development Agreement (the "DDA") from the Developer which provides for the sale or lease of the Site to the Developer for development of the Housing Project, and

WHEREAS, the proposed DDA further provides that the Developer will develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the proposed DDA also provides for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Assistance"), of which $3,500,000 has already been expended for the acquisition of the first three parcels of the Site and will be carried over to the Developer to assist with acquisition of the Site, and the remaining $3,249,000 to be expended to acquire the fourth parcel, and to provide additional financial assistance for the planning and development of the Housing Project, and

WHEREAS, the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, et seq.) provides in Section 33431 that any sale or lease of Agency property may be made only after a public hearing of the Agency after publication of notice as provided by law, and

WHEREAS, the Community Redevelopment Law further provides in Section 33433 that before any property acquired, in whole or in part, with tax increment monies, is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the legislative body after a public hearing, that notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two (2) successive weeks prior to the hearing, and that the Agency shall make available for public inspection a copy of the proposed sale or lease
and a report containing specified information and the financial aspects of the proposal, and

WHEREAS, notice of a joint public hearing of the City Council of the City of Modesto (the "City Council") and the Agency was published on May 19 and May 26, 2009, and a joint public hearing was held on June 2, 2009, to consider and act on the sale or lease of the Site pursuant to the DDA, and

WHEREAS, the Agency prepared a report pursuant to Section 33433 of the Health and Safety Code (the "Report"), describing the cost of the DDA to the Agency, the value of the property interest to be conveyed, the purchase price and other information required by said Section 33433, and the Report, together with the DDA, was made available to the public for inspection, and

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

Section 1. The City Council hereby finds and determines that the sale or lease of the Site to the Developer and development of the Housing Project on the Site pursuant to the DDA will assist in the elimination of blight and will provide housing for very-low and low-income households, and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490. This finding is based upon the facts and information contained in the Report prepared by the Agency pursuant to Health and Safety Code Section 33433.

Section 2. The City Council hereby finds and determines that the consideration for the Site to be paid by the Developer under the DDA is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized
by the DDA. This finding is based upon the facts and information contained in the Report prepared by the Agency pursuant to Health and Safety Code Sections 33433.

Section 3. The City Council hereby approves the DDA in substantially the form on file with the City Clerk. The City Council further approves and authorizes the sale of the Site to the Developer and the funding of the Agency Assistance, all as provided for under the DDA.

Section 4. The Agency is hereby authorized to execute the DDA on behalf of the Agency, subject to any minor conforming, technical or clarifying changes approved by Agency Counsel. The Agency is further authorized to undertake such further actions and execute such documents as are necessary to carry out and complete the obligations of Agency under the DDA on behalf of the Agency, including without limitation the execution of deeds or a lease agreement, and all other actions and documents necessary for the sale or lease of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the DDA.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved for its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION RESCINDING RESOLUTION NO. 2005-583 AND ADOPTING A NEW RESOLUTION TO ESTABLISH NEW PARKING VIOLATION FINES IN ORDER TO ALLOW THE CITY OF MODESTO TO RECOVER ADDITIONAL STATE SURCHARGES RECENTLY ENACTED BY THE STATE LEGISLATURE

WHEREAS, during the 2008 and 2009 legislative years the California State Legislature enacted Senate Bill (SB) 425 and SB1407, which increased the State mandated surcharge-issuing agencies be required to remit to the State and County, and

WHEREAS, with the enactment of SB’s 425 and 1407, the City of Modesto is now required to remit a total of $9.50 to the State and County in surcharges for every paid parking offense where a parking penalty, fine, or forfeiture is imposed, (prior surcharge $5.00) for the funding of the State Court Facilities Construction Fund, and

WHEREAS, unpaid parking fines are sent to the Department of Motor Vehicles (DMV) for a lien to be placed on the cited vehicle, and

WHEREAS, DMV places liens for whole dollar amounts only, therefore, the proposed increase in the fine amounts is $5.00, and

WHEREAS, adopting a new parking citation fine schedule will allow the City to recover the new costs imposed by the State and County in the form of surcharges for each paid parking citation, and

WHEREAS, any change in revenue would be negligible, as the proposed amount covers only the increase in surcharges paid by the City to the State and County, rounded to the nearest whole dollar, and

WHEREAS, without the proposed increase, the revenue from parking citations would be negatively impacted by approximately $90,000. ($4.50 x 20,000 citations), and
WHEREAS, a schedule indicating the current proposed fine amounts for parking violations in the City of Modesto is attached, and

WHEREAS, the Finance Committee reviewed this item at its May 27, 2009 meeting and referred to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2005-583 and adopts a new resolution to establish new parking violation fines in order to allow the City of Modesto to recover additional State surcharges recently enacted by the State Legislature.

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

The foregoing resolution was introduced at a regular meeting, of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
<th>Description of Violation</th>
<th>Current Fine</th>
<th>Proposed Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>3·2.810 Removal of Chalk Marks</td>
<td>$50.00</td>
<td>$55.00</td>
</tr>
<tr>
<td>3·2.812 Obstructing Intersections/Crosswalks</td>
<td>$30.00</td>
<td>$35.00</td>
</tr>
<tr>
<td>3·2.814 Leaving Unattended Vehicle</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>3·2.1002 Use of Streets for storage (over 72 hrs)</td>
<td>$100.00</td>
<td>$105.00</td>
</tr>
<tr>
<td>3·2.1004 Alley parking prohibited</td>
<td>$30.00</td>
<td>$35.00</td>
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<tr>
<td>3·2.1005A Parked Wrong Way</td>
<td>$35.00</td>
<td>$40.00</td>
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<tr>
<td>3·2.1005B Parallel and Angle parking 18&quot;</td>
<td>$25.00</td>
<td>$30.00</td>
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<tr>
<td>3·2.1006 Commercial Vehicle in Residential</td>
<td>$50.00</td>
<td>$55.00</td>
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<tr>
<td>3·2.1007 Parking Prohibited (signs)</td>
<td>$30.00</td>
<td>$35.00</td>
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<tr>
<td>3·2.1008 Emergency Signs</td>
<td>$30.00</td>
<td>$35.00</td>
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<tr>
<td>3·2.1010 Parking on Park, Play Grounds (a,b)</td>
<td>$25.00</td>
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<tr>
<td>3·2.1010 Parked on Sidewalk (c)</td>
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<tr>
<td>3·2.1011 Private Property</td>
<td>$50.00</td>
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<tr>
<td>3·2.1017 Fire Lane</td>
<td>$35.00</td>
<td>$40.00</td>
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<tr>
<td>3·2.1101 Curb Markings (1,2,3,4)</td>
<td>$30.00</td>
<td>$35.00</td>
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<tr>
<td>3·2.1101.5 Blue Zone (5)</td>
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<tr>
<td>3·2.1102 Unauthorized Painting of Curb</td>
<td>$50.00</td>
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<tr>
<td>3·2.1104 Loading Zone</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>3·2.1105 Vehicle in Roadway</td>
<td>$50.00</td>
<td>$55.00</td>
</tr>
<tr>
<td>3·2.1202 Overtime parking</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>3·2.1203 Parking Prohibited (certain times)</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>3·2.1204 Out of Space (on street)</td>
<td>$30.00</td>
<td>$35.00</td>
</tr>
<tr>
<td>3·2.1205 Vision Obstruction</td>
<td>$50.00</td>
<td>$55.00</td>
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<tr>
<td>3·2.1301 Truck Routes</td>
<td>$50.00</td>
<td>$55.00</td>
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<tr>
<td>3·2.1503 Backed into Stall (sign prohibiting)</td>
<td>$25.00</td>
<td>$30.00</td>
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<tr>
<td>3·2.1504 Overtime Meter Zone (a,b)</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>3·2.1511 Comm. Veh in Meter Zone</td>
<td>$50.00</td>
<td>$55.00</td>
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<tr>
<td>3·2.1605 Signs Posted</td>
<td>$40.00</td>
<td>$45.00</td>
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<tr>
<td>3·2.1607 City Reserved Lots</td>
<td>$25.00</td>
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<td>3·2.1608 Parking in Designated Spaces off-street</td>
<td>$30.00</td>
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<tr>
<td>3·2.1909 Residential Permit Required (a,b,c,d,)</td>
<td>$30.00</td>
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<tr>
<td>3·2.2006 Oversized Vehicle Prohibited</td>
<td>$75.00</td>
<td>$80.00</td>
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<tr>
<td>3·2.2007 Trailers Parking Prohibited (a,b)</td>
<td>$75.00</td>
<td>$80.00</td>
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<tr>
<td>3·2.2008 Oversized Vehicle No Permit</td>
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<td>$80.00</td>
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<tr>
<td>4000 (a) Current Registration Required</td>
<td>$190.00</td>
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</tr>
<tr>
<td>4462 (b) False Plate</td>
<td>$108.00</td>
<td>$113.00</td>
</tr>
<tr>
<td>5200 Display of License Plate</td>
<td>$108.00</td>
<td>$113.00</td>
</tr>
<tr>
<td>5201 Covered License Plate</td>
<td>$108.00</td>
<td>$113.00</td>
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<tr>
<td>5204 Current Tabs Required</td>
<td>$108.00</td>
<td>$113.00</td>
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<tr>
<td>21116(a) Parked on Levee or Canal</td>
<td>$146.00</td>
<td>$151.00</td>
</tr>
<tr>
<td>21211 (a) Bike Lane</td>
<td>$20.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>22500 (a) No Parking within Intersection</td>
<td>$190.00</td>
<td>$195.00</td>
</tr>
<tr>
<td>22500 (e) Blocking Driveway</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>22500 (b) Double Parked</td>
<td>$25.00</td>
<td>$30.00</td>
</tr>
<tr>
<td>22500 (i) Bus Loading Zone</td>
<td>$250.00</td>
<td>$255.00</td>
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<tr>
<td>22500(l) Lowered Curb</td>
<td>$250.00</td>
<td>$255.00</td>
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<tr>
<td>22507.9(a,b,c) Handicapped Zone</td>
<td>$300.00</td>
<td>$305.00</td>
</tr>
<tr>
<td>22514 (a) Fire Hydrant</td>
<td>$35.00</td>
<td>$40.00</td>
</tr>
</tbody>
</table>
A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE FINE SCHEDULE FOR PARKING VIOLATIONS WHEN NECESSARY TO INCORPORATE CHANGES IN THE FEES MANDATED BY THE STATE AND/OR COUNTY AND COLLECTED BY THE CITY, PREVIOUSLY AUTHORIZED AND APPROVED BY THE CITY COUNCIL WITHOUT FURTHER CITY COUNCIL ACTION

WHEREAS, during the 2008 and 2009 legislative years the California State Legislature enacted Senate Bill (SB) 425 and SB1407, which increased the State mandated surcharge-issuing agencies be required to remit on behalf of the State and County.

WHEREAS, with the enactment of SB's 425 and 1407, the City of Modesto is now required to remit a total of $9.50 to the State and County in surcharges for every paid parking offense where a parking penalty, fine, or forfeiture is imposed, (prior surcharge $5.00) for the funding of the State Court Facilities Construction Fund, and

WHEREAS, unpaid parking fines are sent to the Department of Motor Vehicles (DMV) for a lien to be placed on the cited vehicle, and

WHEREAS, DMV places liens for whole dollar amounts only, therefore, the proposed increase in the fine amounts is $5.00, and

WHEREAS, adopting a new parking citation fine schedule will allow the City to recover the new costs imposed by the State and County in the form of surcharges for each paid parking citation, and

WHEREAS, any change in revenue would be negligible, as the proposed amount covers only the increase in surcharges paid by the City to the State and County, rounded to the nearest whole dollar, and
WHEREAS, without the proposed increase, the revenue from parking citations would be negatively impacted by approximately $90,000. ($4.50 x 20,000 citations), and

WHEREAS, a schedule indicating the current proposed fine amounts for parking violations in the City of Modesto is attached, and

WHEREAS, the Finance Committee reviewed this item at its May 27, 2009 meeting and referred to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager will adjust the Fine Schedule for Parking Violations when necessary to incorporate changes in the fees mandated by the State and or County and collected by the City, previously authorized and approved by the City Council without further City Council Action,

BE IT FURTHER RESOLVED that the City Manager, or his designee, 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 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Current Fine</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-2.810</td>
<td>Removal of Chalk Marks</td>
<td>$68.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.812</td>
<td>Obstructing Intersections and Crosswalks</td>
<td>$38.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.814</td>
<td>Leaving Unattended Vehicle</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1002</td>
<td>Use of Streets for Storage of Vehicles Prohibited (72 Hour Parking)</td>
<td>$108.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1004</td>
<td>Standing for Loading Only in Alleys (passengers 3 min and materials 20 min)</td>
<td>$38.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1005A</td>
<td>Parallel Parking Parked Wrong Way</td>
<td>$43.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1006B</td>
<td>Parallel Parking (19) Inches</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1005C</td>
<td>Angle Parking (13) Inches</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1006</td>
<td>Parking of Commercial Vehicles in Residential Districts</td>
<td>$58.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1007</td>
<td>Stopping or Parking Prohibited (Signs Required)</td>
<td>$38.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1008</td>
<td>Emergency Signs - No Parking (a,b)</td>
<td>$38.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1009</td>
<td>Driving of Parking on Parks, Playgrounds and City Property (a,b)</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1010C</td>
<td>Parked on Sidewalk</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1011</td>
<td>Parked On Private Property without Consent Prohibited</td>
<td>$56.00</td>
<td>No Change</td>
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<tr>
<td>3-2.1017</td>
<td>Parked in Fire Lane</td>
<td>$43.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1101</td>
<td>(1), (2), (3), (4) Curb Markings - Zone Parking - Red, Yellow, White, Green</td>
<td>$38.00</td>
<td>No Change</td>
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<tr>
<td>3-2.1101.5</td>
<td>No Stopping Parking Bus Zone</td>
<td>$306.00</td>
<td>No Change</td>
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<tr>
<td>3-2.1102</td>
<td>Unauthorized Painting of Curb</td>
<td>$58.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1103</td>
<td>Stopping, Standing for Loading or Unloading Only</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1104</td>
<td>Stopping, Standing for Parking of Vehicles in Roadway</td>
<td>$33.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1201</td>
<td>Parking Restricted or Prohibited</td>
<td>$58.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1202</td>
<td>Overtime Parking Time Limited</td>
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<td>3-2.1203</td>
<td>Stopping or Parking of Vehicles at Certain Streets (a,b,c)</td>
<td>$33.00</td>
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</tr>
<tr>
<td>3-2.1204</td>
<td>Parking Out of Space (on street)</td>
<td>$38.00</td>
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<td>Vision Obstruction - Parking Prohibited (Signs Required)</td>
<td>$58.00</td>
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<tr>
<td>3-2.1301</td>
<td>Truck Routes (a,b)</td>
<td>$58.00</td>
<td>No Change</td>
</tr>
<tr>
<td>3-2.1503</td>
<td>Method of Parking - Parked Backed into Metered Stall (on-street)</td>
<td>$33.00</td>
<td>No Change</td>
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<tr>
<td>3-2.1504</td>
<td>Overtime Parking in Meter Zone (a,b)</td>
<td>$33.00</td>
<td>No Change</td>
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<tr>
<td>3-2.1511</td>
<td>Parking Commercial Veh in Meter Zone</td>
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<td>No Change</td>
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<tr>
<td>3-2.1605</td>
<td>Obstruction to Signs Posted</td>
<td>$33.00</td>
<td>No Change</td>
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<td>3-2.1607</td>
<td>City Reserved Parking - Off Street Parking Lots</td>
<td>$33.00</td>
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<tr>
<td>3-2.1806</td>
<td>Parking in Designated Spaces (off street)</td>
<td>$38.00</td>
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<td>3-2.1909</td>
<td>Residential Parking Permit (a,b,c,d)</td>
<td>$38.00</td>
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<tr>
<td>3-2.2006</td>
<td>Oversized Vehicles - Parking Prohibited</td>
<td>$83.00</td>
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<tr>
<td>3-2.2007</td>
<td>Trailers - Parking Prohibited (a,b)</td>
<td>$83.00</td>
<td>No Change</td>
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<tr>
<td>3-2.2008</td>
<td>Oversized Vehicles w/o Permit</td>
<td>$83.00</td>
<td>No Change</td>
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</table>

**CVC Violation Descriptions**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Current fine</th>
<th>New Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>5200 (a)</td>
<td>Display of License Plates</td>
<td>$116.00</td>
<td>$197.00</td>
</tr>
<tr>
<td>5201 (a,b)</td>
<td>License Plates</td>
<td>$116.00</td>
<td>$197.00</td>
</tr>
<tr>
<td>5201.1 (c)</td>
<td>Altered License Plate Displayed</td>
<td>NEW</td>
<td>$293.00</td>
</tr>
<tr>
<td>5202 (a)</td>
<td>Period of Display of License Plates Specified</td>
<td>NEW</td>
<td>$197.00</td>
</tr>
<tr>
<td>5204 (a)</td>
<td>Registration Tags</td>
<td>$116.00</td>
<td>$196.00</td>
</tr>
<tr>
<td>2121 (c)</td>
<td>Bike Lane</td>
<td>$28.00</td>
<td>$48.00</td>
</tr>
<tr>
<td>4006 (a)(1)</td>
<td>Registration Required</td>
<td>$186.00</td>
<td>$286.00</td>
</tr>
<tr>
<td>4402 (b)</td>
<td>Unlawful Evidence of Registration</td>
<td>$116.00</td>
<td>$197.00</td>
</tr>
<tr>
<td>4464</td>
<td>Altered License Plate Displayed</td>
<td>NEW</td>
<td>$197.00</td>
</tr>
<tr>
<td>22500 (e)</td>
<td>Blocking Driveway</td>
<td>$33.00</td>
<td>$48.00</td>
</tr>
<tr>
<td>22500 (f)</td>
<td>Lowered Curb Wheelchair Access</td>
<td>$258.00</td>
<td>$263.00</td>
</tr>
<tr>
<td>22500 (a)</td>
<td>Parking within an Intersection</td>
<td>$188.00</td>
<td>No Change</td>
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<tr>
<td>22500 (i)</td>
<td>Parked in Bus Zone</td>
<td>$258.00</td>
<td>$263.00</td>
</tr>
<tr>
<td>22110 (a)</td>
<td>Parked on Levee or Canal</td>
<td>$164.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>32500 (b)</td>
<td>Double Parked</td>
<td>$33.00</td>
<td>No Change</td>
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<tr>
<td>22511.1 (a-b)</td>
<td>Parked in Charging Electric Vehicle Space</td>
<td>NEW</td>
<td>$113.00</td>
</tr>
<tr>
<td>22514 (a)</td>
<td>Fire Hydrant</td>
<td>$43.00</td>
<td>No Change</td>
</tr>
<tr>
<td>22507.8 (a-c)</td>
<td>Violation of Disabled Parking Provisions</td>
<td>$308.00</td>
<td>No Change</td>
</tr>
<tr>
<td>22522</td>
<td>Parked Near Sidewalk Access Ramp for Disabled</td>
<td>NEW</td>
<td>$308.00</td>
</tr>
</tbody>
</table>

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Section 8-1.904 et seq., creating and establishing the authority for imposing and charging capital facilities fees (CFF), and

WHEREAS, the current capital facilities fees are set forth in Resolution Nos. 2003-309 and 2006-055, and

WHEREAS, the current CFF Policies and Procedures (Policies and Procedures) are set forth in Resolution No. 2008-070, and

WHEREAS, according to Section 3C of the Policies and Procedures the CFF shall be automatically adjusted annually for all land use categories according to the annual change in the San Francisco Bay Area News Record Construction Cost Index through the month of December of the year preceding each inflation adjustment, and

WHEREAS, the construction cost index (CCI) inflation adjustment scheduled for the upcoming fiscal year is seven percent (7%), and

WHEREAS, the nation, State of California, and City of Modesto have been faced with unprecedented economic circumstances, and

WHEREAS, increasing the fee will not benefit the City of Modesto, and

WHEREAS, staff has recommended the seven percent (7%) CCI be frozen this year, and

WHEREAS, staff will be evaluating all city fees associated with development,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CFF rates applicable to new development for upcoming fiscal year 2009-2010 be frozen at the rate enacted July 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BRIAN HADDIX FROM THE CULTURE COMMISSION

WHEREAS, BRIAN HADDIX was appointed a member of the CULTURE COMMISSION on June 13, 2006, and

WHEREAS, BRIAN HADDIX has tendered his resignation from the CULTURE COMMISSION, and

WHEREAS, BRIAN HADDIX has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of BRIAN HADDIX from the CULTURE COMMISSION be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)
APPROVED AS TO FORM:
By: SUSANA ALCALA WOOD, City Attorney

STEFANIE LOPEZ, City Clerk
RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in Exhibit A, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Finance Director, or his designee, 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 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

CITY MANAGER’S OFFICE
This action will waive the fees associated with a time and materials permit issued to Stanislaus County (Permit N3577) on May 13, 2004 related to streetscape improvements at the 12th and I Streets office building and garage project. These fees were waived in response to the County’s agreement to install streetscape improvements that were not part of the original project plan.
Amount: $11,640.33

FINANCE
A review of 2008/09 General Fund revenues was done by the Finance Department. This adjustment recognizes the change in revenues forecasts due to the current economic conditions. These changes have been incorporated into the financial forecast contained in the proposed, interim operating budget for next year.

REVENUES

FROM:
0100-510-9510-1201 Sales and Use Tax (136,259)
0100-510-9510-1202 Triple Flip Sales Tax (200,673)
0100-510-9510-3119 Motor Vehicle License Fees (200,000)
0100-510-9510-6100 Change in Fair Value of Investment (200,000)
0100-510-9510-8101 Sale of Real Property (425,000)

APPROPRIATIONS

FROM:
0100-800-8000-8003 Contingency Reserves (1,161,932)

The following transfer is required because General Fund reimbursement designated settlement funds from the settlement of the PCE Litigation with Occidental were inadvertently deposited in the Water Fund rather than the General Fund as required by the Settlement Agreement. This amount represented cost recovery to the City for the general oversight work performed by the City Attorney’s Office.

TRANSFER BETWEEN FUNDS

FROM:
6100-700-7000-7010 Transfer Out to Fund 0100 70,000

TO:
0100-700-7000-9610 Transfer In from Fund 6100 70,000

POLICE DEPARTMENT
The Police Department anticipated a cash donation from the Laci & Conner Rescue fund which was budgeted for the purchase of dive equipment. However, the Laci & Conner Rescue fund purchased the equipment directly. This budget adjustment reduces the appropriate revenue and expense lines.

REVENUE
FROM:
0100-190-1961-3761 Donation Revenue (5,096)

APPROPRIATIONS

FROM:
0100-190-1961-5026 Dive Equipment (5,096)

PUBLIC WORKS
The FY 2008-09 operating budget included revenue from the Water, Wastewater, and Airport Funds for specialized work done by Finance Department staff. While the budget correctly reflected the revenue side, the expense side was not entered. This adjustment corrects that oversight.

APPROPRIATIONS

FROM:
6100-800-8000-8003 Water Fund Contingency Reserves (58,760)
TO:
6100-430-5000-0255 Water Fund Level Operating 58,760

APPROPRIATIONS

FROM:
6210-800-8000-8003 Wastewater Fund Reserves (56,797)
TO:
6210-430-5200-0255 Wastewater Fund Level Operating 56,797

APPROPRIATIONS

FROM:
6310-800-8000-8003 Airport Fund Reserves (15,192)
TO:
6310-430-5412-0255 Airport Fund Level Operating 15,192

Sub-funds have been created at the fund level to allow departments to monitor their equipment replacement funds. The following budget adjustment transfers funds in the Fleet Equipment Replacement Fund back to the originating departments.

TRANSFER BETWEEN FUNDS

FROM:
7210-700-7000-7030 Transfer Out to Sub Fund 0309 (86,435)
7210-700-7000-7031 Transfer Out to Sub Fund 0319 (1,807)
7210-700-7000-7070 Transfer Out to Sub Fund 0709 (1,074,320)
7210-700-7000-7113 Transfer Out to Sub Fund 1139 (26,062)
7210-700-7000-7600 Transfer Out to Sub Fund 6009 (55,516)
| 7210-700-7000-7610 | Transfer Out to Sub Fund 6109 | (1,566,365) |
| 7210-700-7000-7621 | Transfer Out to Sub Fund 6219 | (1,643,989) |
| 7210-700-7000-7628 | Transfer Out to Sub Fund 6289 | (1,158,444) |
| 7210-700-7000-7629 | Transfer Out to Sub Fund 6299 | 43,982 |
| 7210-700-7000-7631 | Transfer Out to Sub Fund 6319 | (51,988) |
| 7210-700-7000-7654 | Transfer Out to Sub Fund 6549 | (12,507) |
| 7210-700-7000-7670 | Transfer Out to Sub Fund 6709 | (4,672) |
| 7210-700-7000-7711 | Transfer Out to Sub Fund 7119 | (43,899) |
| 7210-700-7000-7712 | Transfer Out to Sub Fund 7129 | (6,131) |
| 7210-700-7000-7720 | Transfer Out to Sub Fund 7209 | (12,799) |
| 7210-700-7000-7780 | Transfer Out to Sub Fund 7809 | (59,847) |
| 7210-700-7000-7859 | Transfer Out to Sub Fund 8599 | (5,969) |
| 7210-700-7000-7899 | Transfer Out to Sub Fund 8999 | (19,048) |
| **TO** | **Transfer In from Fund 7210** | **5,873,980** |
| 0309-700-7000-9721 | Transfer In from Fund 7210 | 86,435 |
| 0319-700-7000-9721 | Transfer In from Fund 7210 | 1,807 |
| 0709-700-7000-9721 | Transfer In from Fund 7210 | 1,074,320 |
| 1139-700-7000-9721 | Transfer In from Fund 7210 | 26,062 |
| 6009-700-7000-9721 | Transfer In from Fund 7210 | 55,516 |
| 6109-700-7000-9721 | Transfer In from Fund 7210 | 1,566,365 |
| 6219-700-7000-9721 | Transfer In from Fund 7210 | 1,643,989 |
| 6289-700-7000-9721 | Transfer In from Fund 7210 | 1,158,644 |
| 6299-700-7000-9721 | Transfer In from Fund 7210 | 43,982 |
| 6319-700-7000-9721 | Transfer In from Fund 7210 | 51,988 |
| 6549-700-7000-9721 | Transfer In from Fund 7210 | 12,507 |
| 6709-700-7000-9721 | Transfer In from Fund 7210 | 4,672 |
| 7119-700-7000-9721 | Transfer In from Fund 7210 | 43,899 |
| 7129-700-7000-9721 | Transfer In from Fund 7210 | 6,131 |
| 7209-700-7000-9721 | Transfer In from Fund 7210 | 12,799 |
| 7809-700-7000-9721 | Transfer In from Fund 7210 | 59,847 |
| 8599-700-7000-9721 | Transfer In from Fund 7210 | 5,969 |
| 8999-700-7000-9721 | Transfer In from Fund 7210 | 19,048 |

This budget adjustment recognizes revenue in the Local Transportation Fund (LTF) Streets, and transfers LTF Streets funds to the Gas Tax Fund to cover FY2008-09 operating expenses. This simply recognizes revenue that has already been projected in the LTF proforma and is not new revenue.

**REVENUE**

**TO:**

0510-430-4310-1215 LTF Streets Receivable 400,000

**APPROPRIATIONS**

**TO:**

0510-800-8000-8003 LTF Streets Reserves 400,000
### TRANSFER BETWEEN FUNDS

| FROM: 0510-700-7000-7070 | Transfer Out of LTF Streets | 1,235,145 |
| TO: 0700-700-7000-9051 | Transfer In to Gas Tax Fund | 1,235,145 |

The following budget adjustment returns a transfer to the Gas Tax fund from the Local Transportation Fund Streets, and appropriates these funds to cover service credit agreement costs.

### APPROPRIATIONS

| FROM: 0510-800-8000-8003 | LTF Streets Reserves | 76,000 |
| TO: 0510-430-4310-0255 | Services City Forces | 76,000 |

### TRANSFERS BETWEEN FUNDS

| FROM: 0510-700-7000-7070 | Transfer Out to Gas Tax | 76,000 |
| TO: 0700-700-7000-9051 | Transfer In From LTF Streets | 76,000 |

This budget adjustment recognizes Local Transportation Fund Non-Transit revenue and re-appropriated a portion of these funds to the Local Transportation Fund Streets and Roads fund.

### REVENUES

| TO: 0510-430-4310-1213 | LTF Streets | 1,382,506 |

### APPROPRIATIONS

| FROM: 0510-800-8000-8003 | LTF Streets Reserves | 44,773 |
| TO: 0510-430-4310-0255 | Services City Forces | 44,773 |
| 0510-800-8000-8003 | LTF Streets Reserves | 1,382,506 |
This budget adjustment recognizes unbudgeted Local Transportation Fund Non-Motorized revenue in LTF Non-Motorized Reserves. As well as, transfers funds from the LTF Non-Motorized fund to the Capital Grants fund for the Virginia Corridor Phase V project.

**REVENUES**

<table>
<thead>
<tr>
<th>TO:</th>
<th>LTF Non-Motorized</th>
<th>127,827</th>
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**APPROPRIATIONS**

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<thead>
<tr>
<th>FROM:</th>
<th>LTF Non-Motorized Reserves</th>
<th>( 190,000)</th>
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</table>

<table>
<thead>
<tr>
<th>TO:</th>
<th>Virginia Corridor Phase V</th>
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<td>0520-800-8000-8003</td>
<td>LTF Non-Motorized Reserves</td>
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**TRANSFERS BETWEEN FUNDS**

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<th>Transfer Out to Capital Grants</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>TO:</th>
<th>Transfer In from LTF Non-Motorized</th>
<th>190,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2300-700-P365-7230</td>
<td>Transfer Out to Capital Grants</td>
<td>190,000</td>
</tr>
</tbody>
</table>

This budget adjustment reimburses the Wastewater Fund for "Flagging Traffic at Construction Zone" training provided by UC Berkley from a variety of funds. Although these are small dollar amounts, existing policy requires that transfers between funds be approved by Council.

**APPROPRIATIONS**

<table>
<thead>
<tr>
<th>FROM:</th>
<th>Training Expenses</th>
<th>( 36)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0700-480-4622-0209</td>
<td>Training Expenses</td>
<td>( 90)</td>
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<tr>
<td>0700-480-4612-0209</td>
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<td>( 18)</td>
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<tr>
<td>6280-480-5314-0209</td>
<td>Training Expenses</td>
<td>( 72)</td>
</tr>
<tr>
<td>6100-480-5007-0209</td>
<td>Training Expenses</td>
<td>( 215)</td>
</tr>
<tr>
<td>6100-480-5012-0209</td>
<td>Training Expenses</td>
<td>( 36)</td>
</tr>
<tr>
<td>0700-160-1612-0209</td>
<td>Training Expenses</td>
<td>467</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>TO:</th>
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</tr>
</thead>
<tbody>
<tr>
<td>6210-480-5209-0209</td>
<td>Training Expenses</td>
<td>467</td>
</tr>
</tbody>
</table>

This budget adjustment recognizes unbudgeted Interfund Labor revenue and re-appropriates these funds to offset overtime expenses in the Curbs, Gutters, and Sidewalks work unit of the Public Works Department.

**REVENUES**
TO: 0700-480-4724-4909 Interfund Labor 41,893

APPROPRIATIONS

0700-480-4724-0130 Overtime 41,893

This budget adjustment recognizes unbudgeted Interfund Labor revenue and re-appropriates these funds to offset overtime expenses in the Water Operations Division of the Public Works Department.

REVENUES

TO: 6100-480-5012-4909 Interfund Labor 50,980

APPROPRIATIONS

6100-480-5012-0130 Overtime 50,980
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-244

A RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S LOCAL TRANSPORTATION FUND NON-TRANSIT CLAIM #2 FOR FISCAL YEAR 2008-2009 IN THE AMOUNT OF $1,510,330 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, on February 24, 2009, the City Council approved the Fiscal Year 2008-2009 annual claim for Local Transportation Funds (LTF) for non-transit purposes in the amount of $1,393,154, and

WHEREAS, StanCOG informed the Finance Department that on April 8, 2009, the StanCOG Policy Board voted to increase the LTF apportionment to Modesto, and

WHEREAS, the City’s LTF Non-Transit Claim #2 is now $1,510,330, and

WHEREAS, the LTF Non-Transit Claim #2 supersedes the Fiscal Year 2008-2009 LTF Non-Transit Claim approved by the City Council on February 24, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submission of the City’s Local Transportation Fund Non-Transit Claim #2 for Fiscal Year 2008-2009 in the amount of $1,510,330 to the Stanislaus Council of Governments (StanCOG).
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City/Clerk
A RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO CHANGE THE TITLE OF POLICE CRIME SCENE INVESTIGATOR I/II TO POLICE IDENTIFICATION TECHNICIAN I/II

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to title change the classification of Police Crime Scene Investigator I/II to Police Identification Technician I/II. The job specification for this classification is being amended to change the job title back to Police Identification Technician I/II which more accurately reflect the assigned essential functions. The job specification for the new title of Police Identification Technician I/II, as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.
SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 9, 2009.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
CITY OF MODESTO
No. 7163
No. 7164

POLICE CRIME SCENE INVESTIGATOR I / IDENTIFICATION TECHNICIAN I
POLICE CRIME SCENE INVESTIGATOR II / IDENTIFICATION TECHNICIAN II

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

DEFINITION

To perform criminal identification duties of a technical nature including the collection, identification, preservation, examination and processing of digital and physical crime scene evidence; to prepare appropriate reports; to assist in criminal investigations; and to serve as an expert witness in court proceedings.

DISTINGUISHING CHARACTERISTICS

Police Crime Scene Investigator Identification Technician I - This is the entry level class in the Police Crime Scene Investigator Identification Technician series. Positions in this class typically have little directly related work experience. The Police Crime Scene Investigator Identification Technician I class is distinguished from the II level by the performance of less than the full range of duties assigned to the II level. Incumbents work under immediate supervision as procedures and processes of assigned area of responsibility are learned.

Police Crime Scene Investigator Identification Technician II - This is the journey level class in the Police Crime Scene Investigator Identification Technician series and is distinguished from the I level by the assignment of the full range of duties. Employees at this level receive only occasional instruction as new, unusual or unique situations arise and are fully aware of the operating procedures and policies within the work unit. Positions in this class are flexibly staffed and are normally filled by advancement from the I level.

SUPERVISION RECEIVED AND EXERCISED

Police Crime Scene Investigator Identification Technician I

Receives immediate supervision from sworn police supervisory staff.

Police Crime Scene Investigator Identification Technician II

Receives general supervision from sworn police supervisory staff.

May provide direction to other non-sworn crime scene support staff.

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

Essential Functions:

Respond to major crime or traffic accident scenes and provide technical services such as search for, identify, document, collect, preserve, examine, analyze and supervise physical and biological evidence; search for, develop and lift fingerprints; collect elimination fingerprint exemplars, collect body fluids and clothing and make plaster impressions.

Perform forensic laboratory analysis, CAL-ID/AFIS processing, WIN (Western Identification Network) processing, digital photo and video imaging enhancement, biological evidence examination, collection of gunshot residue, number restoration and identification of narcotics and drugs.

Testify in court as an expert witness regarding the collection, processing, examination, analysis, preservation and documentation of physical, biological and digital evidence, crime scenes and automated and manual fingerprint identification.

Prepare and maintain appropriate technical logs, diagrams and reports to document evidence examination and analysis in a manner that ensures reliability, reproducibility, and supports after-the-fact validity verification.

Maintain laboratory equipment, office and crime scene equipment supplies and equipment.

Respond to inquiries and requests from department personnel, District Attorney’s Office, and outside agencies regarding the collection, preservation and analysis of evidence.

Attend autopsies to collect physical evidence that may assist in determining a cause of death.

Provide training to other law enforcement personnel in crime scene evidence and fingerprint collection, preparation and analysis and in preparing for court testimony in such matters.

Prepare and present a variety of presentations.

Draft supply and equipment bids.

Prepare monthly unit reports.

Perform equipment inventory and audits.

Build and maintain positive working relationships with co-workers, other City employees.
and the public using principles of good customer service.

Marginal Functions:
Perform related duties as assigned.

MINIMUM QUALIFICATIONS:

Police Crime-Scene Investigator Identification Technician I

Knowledge of:
Basic principles of digital photography.
Latent print development techniques.
Basic practices, methods and techniques used to collect and preserve evidence.
Manual and automated finger/palm print identification systems.
Principles and practices of safety management.
Modern systems for classifying, searching and filing fingerprint cards.
Modern office procedures, methods and computer equipment.

Ability to:
Use various methods of digital photography and operate forensic light sources.
Follow oral and written instructions.
Preserve confidentiality of sensitive materials.
Establish and maintain effective working relationships with those contacted in the course of work.
Communicate clearly and concisely, both orally and in writing.

EXPERIENCE AND TRAINING GUIDELINES

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

Exhibit A
Experience:

None required.

Training:

Equivalent to a Bachelor's degree from an accredited college with coursework in criminology, forensic science, life sciences or a related field. Two years of progressively responsible experience with a law enforcement agency in fingerprint collection and development, latent fingerprint analysis, and processing/analyzing major crime scenes may substitute for two years of required education.

Completion of a minimum of 100 hours of specialized training in basic fingerprint identification and crime scene examination that is POST-recognized or the equivalent and at least one course covering basic English composition skills. These hours of training must have been taken within five (5) years of the final filing date.

License or Certificate:

Possession of a valid California driver's license at the time of appointment.

Police Crime Scene Investigator Identification Technician II:

In addition to the qualifications for the Police Crime Scene Investigator Identification Technician I:

Knowledge of:

Those sections of the California Evidence Code pertaining to crimes.

Advanced principles of digital photography, videography equipment and standards and specialized software programs used for viewing, processing, analyzing, and cataloging photos and videos.

Sequential processing methods used in recovery, collection and preservation of physical evidence.

Physical, biological and digital evidence identification, documentation, collection and preservation.

Methods for storing chemicals and sequential chemical processing used to process a variety of evidence.
Knowledge of: (Continued)

OSHA requirements regarding chemical storage, usage, destruction and environmental hazards; and biological safety in the workplace.

Advanced, state-of-the-art crime scene and crime lab procedures.

Ability to:

Calculate chemical formulary.

Accurately process and document a crime scene.

Research and apply new techniques, equipment, and case law to improve procedures.

Interpret and explain technical findings.

Prepare court displays.

Perform equipment inventory and audits.

Prepare monthly unit and other reports.

Train others in crime scene evidence collection, preparation and analysis and in preparing for court testimony in such matters.

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

Eighteen months of responsible experience equivalent to Police Crime Scene Investigator Identification Technician I with the City of Modesto.

Training:

Equivalent to a Bachelor's degree from an accredited college with course work in criminology, forensic science, life sciences or a related field. Two years of progressively responsible experience with a law enforcement agency in fingerprint collection and development, latent fingerprint analysis, and processing/analyzing major crime scenes may substitute for two years of required education.
Completion of a minimum of 300 hours of specialized training relating to the detection, collection and preservation of crime scene evidence that is POST-recognized or the equivalent. Courses must include, but are not limited to, advanced training in fingerprint collection and identification, digital imaging technology, chemical processing, photography, collection of physical evidence at crime scenes and courtroom presentation of evidence.

License or Certificate:

Possession of a valid California driver's license at the time of appointment.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. Lifting: frequently up to 50 pounds; occasionally up to 75 pounds. Vision: constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. Dexterity: frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. Hearing/Talking: frequent hearing and talking, in person and on the phone. Emotional/Psychological: frequent decision-making and concentration; frequent public and/or coworker contact; frequent working alone; exposure to crime scenes. Environmental: frequent exposure to noise and chemicals, firearms, controlled substances and biologically contaminated substances.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Some positions may be assigned to remote locations. Some duties involve working outside in a variety of climates and at crime scenes. Incumbents must wear a City-approved uniform and related equipment and are subject to irregular work shifts including working any shift in a 24-hour day, weekends and holidays; be available on call; maintain status as expert witness.

<table>
<thead>
<tr>
<th>Class Spec History</th>
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<tbody>
<tr>
<td>Adopted 8/03</td>
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<td>Revised 12/08</td>
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<tr>
<td>5/09</td>
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<td>BU Public Safety NS</td>
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Exhibit A
A RESOLUTION AMENDING THE CLASS RANGE TABLE FOR PUBLIC SAFETY NON-SWORN CLASSES TO CHANGE THE TITLE OF POLICE CRIME SCENE INVESTIGATOR I/II TO POLICE IDENTIFICATION TECHNICIAN I/II

WHEREAS, Council desires to amend Exhibit "A" of Resolution No. 2008-501 which approved the Class Range Table for Public Safety Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2008-501, Exhibit "A" entitled, "City of Modesto Class Range Table Public Safety Non-Sworn Classes Effective July 22, 2008" is hereby amended as shown on Exhibit "A" entitled, "City of Modesto Class Range Table Public Safety Non-Sworn Classes Effective June 9, 2009," which is attached hereto and made part hereof as though set forth in full herein. Said amended Exhibit "A" changes the title of Police Crime Scene Investigator I at salary range 1123 to Police Identification Technician I and changes the title of Police Crime Scene Investigator II at salary range 1127 to Police Identification Technician II.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 9, 2009.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney

(SEAL)

06/09/09/HR/CPlatt/Item 7 2 2009-246
<table>
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<tr>
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<tr>
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<td>Police Clerk I</td>
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<td>1110</td>
<td>Police Evidence and Property Technician I</td>
</tr>
<tr>
<td>1112</td>
<td>Police Clerk II</td>
</tr>
<tr>
<td>1114</td>
<td>Police Evidence and Property Technician II</td>
</tr>
</tbody>
</table>
| 1115  | Police Animal Control Officer  
         Police Community Service Officer I |
| 1118  | Fire Prevention Inspector I |
| 1119  | Police Animal Control Officer II  
         Police Community Service Officer II |
| 1121  | Police Crime and Intelligence Analyst I |
| 1122  | Fire Prevention Inspector II  
         Police Officer Recruit  
         Police Technician |
| 1123  | **Police Identification Technician I** |
| 1125  | Police Crime and Intelligence Analyst II |
| 1126  | Senior Fire Prevention Inspector |
| 1127  | **Police Identification Technician II** |

Exhibit A
A RESOLUTION APPROVING AN AGREEMENT WITH THE STATE OF CALIFORNIA, COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST), FOR UP TO $20,700 TO PROVIDE TRAINING FOR 100 STUDENTS IN FOUR-HOUR FORCE OPTIONS SIMULATOR COURSES AND 100 STUDENTS IN FOUR-HOUR MOBILE FORCE OPTIONS SIMULATOR TRAINING COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Police Department acquired the Force Options Simulator (FOS) in 1999, and

WHEREAS, the FOS is a 42-foot trailer that contains state-of-the-art video technology, and

WHEREAS, the video scenarios place an officer in a position to make critical decisions regarding the use of force, and

WHEREAS, the FOS training provides the student with practical handling of volatile situations and the use of proper force options that are available, and

WHEREAS, the training goal is to reduce unnecessary deaths, injuries, liability costs, and improve safety overall for California law enforcement personnel and the public, and

WHEREAS, when the Police Department acquired the FOS, the State of California Commission on Peace Officer Standards and Training (POST) agreed to reimburse the Modesto Police Department for training administered via the FOS, or the Mobile FOS, and

WHEREAS, when the training is conducted locally, the FOS reimbursement is $79.00 per student, and
WHEREAS, when the training is conducted outside the local area, the reimbursement is $128.00 per student, and

WHEREAS, the maximum reimbursement is 100 students locally ($7,900) and 100 students when the simulator is at another jurisdiction ($12,800), and

WHEREAS, the projected total annual reimbursement is $20,700, and

WHEREAS, staff estimates these reimbursements will fully cover the cost of the officer's salary, per diem, mileage, and routine maintenance expenses for the simulator and transport vehicle, and

WHEREAS, POST is requesting a renewal of the Agreement for the term July 1, 2009 through June 30, 2010, and

WHEREAS, the City of Modesto will realize General Fund revenue of up to $20,700 into the 0100-190-1921-3126 Simulator Training Account,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the State of California, Commission on Peace Officer Standards and Training (POST), for up to $20,700 to provide training for 100 students in four-hour Force Options Simulator Courses and 100 students in four-hour Mobile Force Options Simulator training courses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-248

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON RAMP PROJECT, ACCEPTING THE BID, AND APPROVING A $598,920.65 CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION FOR THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON RAMP PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project were opened at 11:00 a.m. on May 19, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $598,920.65 received from DSS Company dba Knife River Construction be accepted as the lowest responsible bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project, accepts the bid of DSS Company dba Knife River Construction in the amount of $598,920.65, and awards DSS Company dba Knife River Construction the contract for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with DSS Company dba Knife River Construction in
the amount of $598,920.65, for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ________________________________

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO SUBMIT AN APPLICATION TO THE DEPARTMENT OF ENERGY (DOE) FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) FUNDS IN THE AMOUNT OF $1,952,900; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the United States Department of Energy (DOE) has been delegated authority to award eligible city allocations for the Energy Efficiency and Conservation Block Grant program funded through the American Recovery and Reinvestment Act of 2009, and

WHEREAS, per guidance released by the DOE, the City of Modesto is eligible to receive $1,952,900 in such funds for eligible projects, and

WHEREAS, staff has developed a mixed portfolio of energy efficiency measures that can be obligated/completed within the time frame allowed by the EECBG program, and

WHEREAS, said portfolio of projects will enhance the energy efficiency and conservation of energy at City facilities, as well as providing additional sources of clean energy, and

WHEREAS, said portfolio of projects will include highly visible demonstrations of these energy efficiency technologies to local residents and businesses, and will enhance the public’s knowledge of the benefits of these technologies, and

WHEREAS, said portfolio of projects will create new jobs, and will leverage funding available from other sources, and
WHEREAS, said portfolio of projects will include retrofitting of heating and cooling systems on public buildings, the installation of energy efficient foam roofs on public buildings, the installation of solar photovoltaic systems on public buildings, and the use of energy efficient street and park lighting for public safety,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of an application to the Department of Energy (DOE) for Energy Efficiency and Conservation Block Grant (EECBG) funds in the amount of $1,952,900.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ADOPTING THE DEPARTMENT OF LABOR EMPLOYEE COST INDEX – COMPENSATION COMPONENT FOR STATE AND LOCAL GOVERNMENT AS THE ANNUAL ESCALATOR INDEX FOR SUBSTANDARD AND DANGEROUS BUILDING FEES, WITH AN INCREASE OF 4.1% EFFECTIVE RETROACTIVE TO JULY 1, 2008 AND AN INCREASE OF 3% EFFECTIVE JULY 1, 2009, AND AN ANNUAL INCREASE ON JULY 1 OF EACH YEAR THEREAFTER

WHEREAS, on March 6, 2007, the City Council, by Resolution 2007-163, established substandard and dangerous building code fees as provided for in the Modesto Municipal Code for the issuance of a Notice and Order, Appeal of a Notice and Order and Closing costs associated with a Notice and Order, and

WHEREAS, collection of these fees provide for the recovery of direct and indirect labor and material costs associated with these activities, and

WHEREAS, at the time the item was presented to Council on March 6, 2007, it was also recommended in the staff report that Council adopt the Department of Labor Employee Index – Compensation Component for State and Local Government as the escalator index for these fees, to be implemented during the budget cycle of each year, and

WHEREAS, this recommendation was inadvertently excluded from the resolution, and

WHEREAS, due to this oversight, the annual adjustment was not applied during the two previous fiscal years, and

WHEREAS, the annual adjustment for those fiscal years was 4.1% for July 1, 2007, and 4.1% for July 1, 2008, and

WHEREAS, the annual adjustment effective July 1, 2009, will be 3%,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Department of Labor Employee Cost Index – Compensation Component for State and Local Government as the annual escalator index for substandard and dangerous building fees, effective retroactive to July 1, 2008, and July 1 of each year thereafter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GOODWIN CONSULTING GROUP, INC. FOR THE PREPARATION OF AN INFRASTRUCTURE FINANCING PLAN FOR THE KIERNAN BUSINESS PARK EAST SPECIFIC PLAN AREA IN AN AMOUNT NOT TO EXCEED $48,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council is desirous of creating an Infrastructure Financing Plan, (“IFP”), for the Kiernan Business Park East Specific Plan Area (“Project Area”), and

WHEREAS, Chopra Development Enterprises (“Applicant”), has a legal interest in real property located within the Project Area, shown in Exhibit “A” attached hereto and incorporated by this reference, and is interested in pursuing development of properties in the Project Area, and

WHEREAS, staff has prepared a Standard Agreement for Consultant Services (“Agreement”) of which contains a scope of services prepared by Goodwin Consulting Group (“Consultant”) for the Project Area, attached as Exhibit B, and

WHEREAS, Applicant has advanced a deposit in the amount of FORTY-EIGHT THOUSAND DOLLARS ($48,000) to the City to fund the Scope and to pay staff expenses expected to be incurred in connection with the Project, and

WHEREAS, the City will issue Notices to Proceed to the City’s Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Standard Agreement for Consultant Services, attached hereto as Exhibit “B” and incorporated by this reference is hereby approved.
The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
STANDARD AGREEMENT
FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this ___ day of __________________, 2009, ("Effective Date") by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and GOODWIN CONSULTING GROUP, INC., a California corporation, hereinafter referred to as "Consultant".

This Agreement is made with regard to the following recitals:

A. The City has determined that an Infrastructure Finance Plan should be prepared for the City for the Kiernan Business Park East Specific Plan Area.

B. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. SCOPE OF SERVICES.

Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached hereto and referred to as Exhibit "A" or "project". The Consultant shall perform the services as described in Exhibit "A" in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to City.

2. TERM OF AGREEMENT.

This Agreement is effective as of the date first written above and will continue in effect until City's acceptance of and payment for all services authorized by City and
EXHIBIT B

performed by Consultant, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents commonly referred to as “project” attached hereto as Exhibit "A" and made a part hereof. City hereby gives Consultant notice to proceed with the preparation of the project in the manner described in Exhibit "A", as of the Effective Date of this agreement. Consultant shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth in Exhibit "A".

3. COMPENSATION.

Consultant agrees to accept a sum not to exceed $48,000 as full remuneration for performing all services and furnishing all staffing and materials called for in Exhibit "A" and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid pursuant in the manner and at the times set forth below:

Consultant shall provide itemized monthly invoices for the amount of work produced and the appropriate fees for a particular month. The invoices for the amount of personnel hours spent and the applicable rate as described in Exhibit “B”. Except as provided in Paragraph 15 of this Agreement, the City shall pay said invoice within thirty (30) days of receipt of said invoice.

4. OBLIGATIONS OF CONSULTANT.

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as
well as all tools, instrumentalities, facilities and other resources necessary to provide the City with the services contemplated by this Agreement. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

5. PERFORMANCE BY KEY EMPLOYEE.

Consultant has represented to City that Mr. David Freudenberger, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that sixty percent (60%) or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

6. OWNERSHIP OF DOCUMENTS/TITLE TO DATA.

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

If, as a part of the agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this agreement will be delivered to City upon the completion or termination of services under the contract.
EXHIBIT B

All materials, documents, data or information obtained from the City data files or any City medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

7. NEWS AND INFORMATION RELEASE.

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Manager.

8. INTEREST OF CONTRACTOR.

Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of City.

9. AMENDMENTS.

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.
Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

10. **INDEPENDENT CONTRACTOR.**

All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of City. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

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

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period service is provided to City under this Agreement. If necessary, Consultant has the responsibility for employing
other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent contractor and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as a City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

11. ASSIGNMENT.

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.

12. PATENT/COPYRIGHT MATERIALS.

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the
performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

13. **NOTICES.**

Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR CONSULTANT:  
Name: Goodwin Consulting Group, Inc.  
Address: 555 University Avenue, Suite 280  
Sacramento, CA 95825  
Attention: Dave Freudenberger  
Phone: (916) 561-0890

FOR CITY:  
Name: City of Modesto  
Address: P.O. Box 642  
Modesto, CA 95353  
Attention: Amy Gedney, IFP Administrator  
Phone: (209) 577-5211

14. **INSURANCE REQUIREMENTS.**

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

-7-
EXHIBIT B

(a) **Worker's Compensation** - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $1,000,000.

(b) **General Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations as applicable.

(c) **Automobile Liability** insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. This insurance shall cover any automobile for bodily injury and property damage.

(d) **Professional Liability** insurance with a minimum limit of $1,000,000 per claim and policy aggregate. If coverage is on a claims made basis it shall be maintained for at least three (3) years following completion of the work.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended or terminated.

Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be
construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance listed above to the City prior to the time the contract is signed.

CONSULTANT shall provide CITY with separate endorsements evidencing proof of the CITY's additional insured status as to both the general liability and automobile liability insurance policies. In addition, CONSULTANT shall provide CITY with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

For any claims related to this project, the CONSULTANT'S insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

15. TERMINATION OF AGREEMENT.
EXHIBIT B

Termination on Occurrence of Stated Events
This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

Termination by City for Default of Consultant
Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City's property by Consultant, dishonesty or theft.

Termination by Consultant for Default of City
Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

Termination by City for Lack of Budgeted Funds
The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.
Termination for Failure to Make Agreed-Upon Payments

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

Termination by City for Change of Consultant's Tax Status

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent contractor status, City may terminate this Agreement by giving written notice to Consultant. The termination date shall be the effective date of the notice.

Voluntary Termination

The parties may terminate this contract upon mutual written Agreement.

In the Event of Termination

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work on the project. Further, if City so requests, and at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be determined by City in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by
City for Default of Consultant, Consultant understands and agrees that City may, in City's sole discretion, refuse to pay Consultant for that portion of Consultant's services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

16. CERTIFIED PAYROLL REQUIREMENT.

For consultants performing field work on public works contracts on which prevailing wages are required: The Consultant shall comply with the provisions of Section 1776 of the California Labor Code, regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

17. INDEMNITY.

The Consultant shall hold the City, its agents, officers, employees, and volunteers, harmless from and save, defend and indemnify them against any and all claims, losses, liabilities, judgments or damages from every cause, including but not limited to injury to person or property or wrongful death, including reasonable costs and expenses of defense of any judicial or administrative action, arising directly or indirectly out of any negligent or intentional act or omission of Consultant, or its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

Consultant's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. DISPUTE RESOLUTION.

All claims, controversies, or disputes arising out of, or relating to the formation of this Agreement, or the breach, termination execution, enforcement, interpretation,
or validity of this Agreement, including the determination of the scope or applicability of this contract provision shall be determined by binding arbitration in Modesto, California, by one arbitrator, except as otherwise specified in this Agreement. The American Arbitration Association shall administer the arbitration under its Arbitration Rules then in effect, subject to the modifications of those rules contained in this paragraph. This agreement to arbitrate shall be specifically enforceable under the prevailing law of any court having jurisdiction, and the award rendered by the arbitrator may be entered in any court having jurisdiction. The appropriate venue for any arbitration or court proceeding relating to or arising out of this provision shall be in Stanislaus County, California.

This paragraph is not intended to and does not waive the claim filing requirements found in California Government Code section 900 et seq. In the event that a timely and legally sufficient, arbitrable claim is filed by Consultant with City, and the claim is rejected in whole or in part by City, this paragraph shall result in the conclusive, final, and binding resolution of all the issues presented in the claim by Consultant so long as any issues presented by the claim are arbitrable. Claims rejected by City or by operation of law, shall be submitted by Consultant to arbitration pursuant to the Arbitration Rules of the American Arbitration Association within ninety (90) days after mailing of the written rejection by City to Consultant. Otherwise, the claim or claims shall be deemed waived in their entirety.

The “fast track” rules of the American Arbitration Association shall apply to any claim or counterclaim less than ONE HUNDRED FIFTY THOUSAND AND 00/100 ($150,000.00) DOLLARS. In arbitration not proceeding under the “fast track” rules, the arbitrator shall have the power to order that depositions be taken and other discovery be made. Both City and Consultant shall have the right, upon written notice, to take no more than three (3)
depositions of the other as a matter of right in an arbitration proceeding under the "fast track" rules.

Whether or not City and Consultant may be engaged in interstate commerce, any controversy or dispute mentioned above shall be determined by, and the parties shall be bound by, the substantive law of the State of California, and not the Federal Arbitration Act at 9 USC Section 1 et seq.

The arbitrator may grant any remedy or relief deemed by the arbitrator just and equitable under the circumstances, whether or not such relief could be awarded in a court of law. The arbitrator shall be empowered to award monetary sanctions against a party for failure of cooperation in the arbitration. The arbitrator shall, in written award, allocate all the costs of the arbitration, including the fees of the arbitrator and the reasonable attorney fees of the prevailing party, against the party who did not prevail. The prevailing party shall be the party in whose favor the majority of the central issues in the case are resolved.

Notwithstanding anything in this provision to the contrary, the arbitrator shall have no power to award punitive damages or other damages not measured by the party's actual damages (excluding litigation costs and fees) against any party. This limitation of the arbitrator's powers under this Agreement shall not operate as an exclusion of the issue of punitive damages from this Agreement to Arbitrate sufficient to vest jurisdiction in a court with respect to that issue.

Consultant shall include in all subcontracts a specification whereby the subcontractor consents to being joined in an arbitration between City and Consultant involving the work of the subcontractor to be joined. Consultant's failure to do so shall be a breach of this Agreement.
The parties hereby waive any rights provided by Title 9.2 of the California Code of Civil Procedure, Section 1296. The arbitrator’s award shall be deemed final, conclusive and binding to the fullest extent allowed by California law.

19. ENTIRE AGREEMENT.

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant’s proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

20. PARTIAL INVALIDITY.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

21. WAIVER.

The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

22. AUDIT.

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.
EXHIBIT B

Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

23. GOVERNING LAW.

This Agreement shall be governed according to the laws of the State of California.

24. HEADINGS NOT CONTROLLING.

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

25. COMPLIANCE WITH LAWS.

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

26. CITY BUSINESS LICENSE.

Consultant will have a City of Modesto business license.
IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-____, adopted by the Council of the City of Modesto on the ___ day of __________, 2009, and __________ has caused this agreement to be duly executed in duplicate as of the Effective Date.

CITY OF MODESTO,  
a municipal corporation

By ____________________________  
GREG NYHOFF, City Manager

GOODWIN CONSULTING GROUP, INC.  
a California corporation*

By ____________________________  
Name  
Title

By ____________________________  
Name  
Title  
(Seal)

ATTEST:

By ____________________________  
STEPHANIE LOPEZ, City Clerk

Consultant’s Federal ID #______________

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By ____________________________  
DAVE CERVANTES, Sr. Deputy City Attorney

* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.

Partnership - signature of a partner required

Sole Proprietorship - signature of proprietor required
EXHIBIT B

EXHIBIT A

KIERNAN BUSINESS PARK EAST
CITY OF MODESTO

INFRASTRUCTURE FINANCING PLAN
SCOPE OF WORK

Goodwin Consulting Group, Inc. (GCG) will prepare an Infrastructure Financing Plan (IFP) that recommends a funding strategy for public infrastructure that will serve the Kiernan Business Park East project in the City of Modesto (the “Project”). The IFP will be equitable to all affected property owners, financially feasible when considered in the competitive marketplace, and consistent with the City’s financing policies and impact fee program. The specific tasks to be performed under this scope of work include the following:

Task 1. Research and Data Collection

Planning and Land Use

GCG will summarize information provided in the land use planning and engineering analyses that have been, or will be, conducted for the Project. GCG will work with the City to summarize the six phases that are anticipated, as well as the buildout scenario. This task will involve coordinating with City staff and affected landowners to develop assumptions for the following items:

- Acreage and square footage of non-residential building space
- Acreage and units of residential development
- Anticipated absorption of the Project
- Estimated value of parcels, buildings, and units within the Project, including current unimproved value and projected developed value
- Projected demographic data, including persons per household and employees per acre

Facilities Costs and Phasing

It is understood that public facilities will be needed at various stages during development, so a facility phasing plan will be incorporated into the IFP and provided by the City. The phasing plan will delineate infrastructure required to initiate Project development (it is anticipated that Phase I infrastructure will need to be oversized), additional infrastructure required at the onset of each future phase, and the total infrastructure package required to support the Project at buildout.
Fee Program Review

GCG will review existing City fee programs, balances in fee accounts that are available to apply to Project facility costs (if any), and current City policies related to land-secured financing. This information will be incorporated into the strategy presented in the IFP and the approach proposed for public financing programs.

Task 2. Cost Allocations and Fee Program Analysis

Using the facility and land use information collected in Task 1, GCG will perform a benefit spread of the costs of all proposed public improvements that are necessary to serve land uses in the Project. GCG will use benefit units (i.e., trip generation factors, gallons per day) that have been used by the City engineers to allocate costs and determine the gross one-time fee (assuming no debt financing) that would be required from each type of land use to pay its “fair share” of each facility. For facilities already covered under an existing City fee program, GCG will compare the cost allocation to the amount of the existing fees to identify the need for additional Project-specific fees or fee credits and reimbursement agreements if facility oversizing is expected to be carried by the Project. Such oversizing could be internal to the Project between phases, and could also be external and involve other future development.

Once the cost allocation has been completed, GCG will prepare a summary of gross impact fee revenues that will be generated each year based on the absorption assumptions used to phase the facilities. Fee revenues will be compared to facility costs and timing to identify funding gaps and the need for debt financing.

Task 3. Public Financing Analysis

GCG will prepare a financing strategy to remedy funding gaps that are projected to occur if the City relies on a pay-as-you-go funding program. This analysis will be highly implementation-oriented and will consider all details that could impact formation of a financing district. Specifically, GCG will provide the following:

- Analysis of total bonding capacity available from a public financing district considering all potential funding limitations, such as value-to-lien ratios, coverage requirements, maximum tax rates, and market acceptance. The analysis will incorporate specific financing details that could affect funding capacity, including reserve fund requirements, issuance and administrative costs, and capitalized interest.

- Estimate of annual financing burdens by land use category assuming alternate tax classification categories for various land uses, as well as developed and undeveloped uses. The annual burden will take into account both repayment of debt service on bonded indebtedness and special taxes collected to pay for annual storm drainage and landscape maintenance expenses, and any other annual burdens affecting the Project.

- Calculation of the net impact fee that will be needed after accounting for infrastructure that will be paid from bonds supported by annual special taxes.
Task 4. **Feasibility Test**

The net burdens on each land use, both one-time and annual burdens, will be compared against the estimated developed values to test financial viability. This test will be applied to land uses in Phases I through VI, as well as the total Project at buildout. The net burdens of the Project will also be compared against those of other competitive projects in the region.

Task 5. **Reimbursement Program Review**

To the extent that multiple landowners are expected to develop within the Project, GCG will evaluate the need to establish reimbursement programs or public districts to reimburse developers who build over-sized public improvements which will benefit other properties that do not participate in the initial funding. Such programs will ensure the timely construction of infrastructure and provide for a more equitable distribution of costs.

Task 6. **Report Preparation**

Based on the findings from Tasks 1 through 5, GCG will prepare a comprehensive IFP that (i) summarizes public facility costs at buildout and on a phased or annual basis based on selected absorption assumptions, (ii) identifies net one-time impact fees to be collected within the project area to fund facilities that can be provided on a pay-as-you-go basis, (iii) sets forth the maximum annual special tax for each land use that will be needed to repay bonded indebtedness, (iv) tests financial feasibility, and (v) summarizes the recommended funding strategy, including implementation measures that must be enacted by the City to put the strategy in place.

Task 7. **Meetings**

GCG will attend up to five (5) meetings associated with preparing the IFP, which may include, but will not be limited to, meetings with City staff and landowners to review data requirements, assumptions, and draft and final reports, and to present findings to the Planning Commission and City Council.
Budget for Services Set Forth in Scope of Work

Goodwin Consulting Group, Inc. (GCG) proposes a maximum budget of $48,000 to perform Tasks 1 through 7 of the scope of work set forth above. This budget represents a maximum amount not to be exceeded, subject to the limitations identified below. Additional consulting services beyond those included in the scope of work may be provided within the maximum budget if total hourly billings are less than the budget maximum. Alternatively, if the scope of services can be completed for less than the maximum budget, only the hours actually expended will be billed. Following is the schedule of GCG’s hourly service rates:

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managing Principal</td>
<td>$250/Hour</td>
</tr>
<tr>
<td>Principal</td>
<td>$240/Hour</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>$185/Hour</td>
</tr>
<tr>
<td>Associate</td>
<td>$160/Hour</td>
</tr>
<tr>
<td>Analyst</td>
<td>$145/Hour</td>
</tr>
<tr>
<td>Research Assistant</td>
<td>$80/Hour</td>
</tr>
</tbody>
</table>

*The rates reflected above are valid through December 31, 2009, and may be adjusted thereafter.*

Expenses

*In addition to the budgets set forth above for services,* GCG shall be reimbursed for direct expenses, including mileage, photocopying, data sources, courier, overnight delivery, and long-distance telephone expenses.

Billing Structure

GCG will submit monthly invoices to the City providing details of services rendered and expenses incurred. Invoices are due and payable within 30 days.
**Out of Scope Services**

The selected budget and associated scope of work may not include the following tasks, which will be defined as “Out of Scope Work” if performing these tasks causes the maximum budget to be exceeded:

- Attendance at more than a total of five formal meetings as set forth in the scope of work
- Extensive revisions after a draft IFP has been submitted due to changes in the land use plan, changes public facility plans or cost estimates, or other extensive changes
- Services associated with formation of a financing district and issuance of bonds

Out of Scope Work will be billed at the hourly rates listed above.
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-252

A RESOLUTION AMENDING THE MULTI-YEAR ACCOUNT (2900-020-0261)
AND APPROPRIATING $50,000, FUNDED BY CHOPRA DEVELOPMENT
ENTERPRISES, FOR THE PREPARATION OF AN INFRASTRUCTURE
FINANCING PLAN FOR THE KIERNAN BUSINESS PARK EAST SPECIFIC
PLAN AREA

WHEREAS, the Kiernan Business Park East Specific Plan Area is in need of an
Infrastructure Finance Plan ("IFP") to identify the costs associated with the facilities
necessary for build out of that specific plan area, and

WHEREAS, on June 23, 2009, by Resolution No. 2009-251, the Council of the
City of Modesto approved a Standard Agreement for Consultant Services ("Agreement")
with Goodwin Consulting Group, for the preparation of the IFP, and

WHEREAS, on May 9, 2006 by Resolution No. 2006-287, the Council of the City
of Modesto approved an Advanced Funding Agreement and Cost-Sharing Agreement For
Kiernan Business Park East between the City and Chopra Development Enterprises, Inc.,
a California corporation ("Applicant"), and

WHEREAS, Applicant has deposited with the City the amount of FIFTY
THOUSAND AND 00/100 ($50,000) DOLLARS to fund the IFP and associated staff
time, and

WHEREAS, the multi-year budget for 2900-020-0261 must be amended as shown
in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the amendment of the multi-year operating budget for the
preparation of an Infrastructure Financing Plan for the Kiernan Business Park East
Specific Plan Area as shown in Exhibit A and authorizes the Finance Director to take the necessary actions to effect the budget amendment.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Exhibit A

Fund: *Kiernan Business Park East FMP/IP*

<table>
<thead>
<tr>
<th>Account Name</th>
<th>Increase/(Decrease)</th>
</tr>
</thead>
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<td><strong>Expenditures</strong></td>
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<td>$ 50,000</td>
</tr>
</tbody>
</table>
RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE FURNISHING OF CITYWIDE SECURITY GUARD SERVICES TO GUARDSMARK, GP, SACRAMENTO, CA, FOR A TERM OF ONE YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 18, 2008, Guardsmark, GP began providing security guard services to the City under emergency circumstances, and

WHEREAS, by accessing the terms from a competitively bid contract by Stanislaus County, No. 08-40-CB, which best meets the City’s needs, the City secured Citywide security guard services, and

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

WHEREAS, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, the furnishing of Citywide security guard services, by accessing the terms of a competitively bid contract from Stanislaus County, Project No. 2008-001, to
Guardsmark, GP Sacramento, CA, conforms to the Code, and

WHEREAS, sufficient funds will be are budgeted in Fiscal Year 2009-2010 in appropriation Units: 6000-350-3583-0235, 6000-350-3584-0235, 6000-350-3585-0235, 6100-480-5007-0235, 6100-480-5012-0235, 6100-480-5013-0235, 6210-480-5213-0235, 6310-440-5412-0235, 6530-165-1674-0235, 6530-165-1675-0235, 8500-350-3524-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the furnishing of security guard services for Citywide use, to Guardsmark, GP, Sacramento, CA,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

06/23/2009/Finance/KMasasso/Item 6 2 2009-253
A RESOLUTION APPROVING ADDITIONAL HOME INVESTMENT PARTNERSHIP PROGRAM (HOME), COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS FROM FY 2007-2008 IN THE AMOUNT OF $560,000 TO BE ALLOCATED TO HABITAT FOR HUMANITY, STANISLAUS, TO ASSIST WITH PRE-DEVELOPMENT AND CONSTRUCTION COSTS FOR HOPE VILLAGE SINGLE FAMILY HOUSING PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS AND ANY RELATED DOCUMENTS

WHEREAS, on November 9, 2005, by Resolution No. 2005-556, the City Council approved an allocation of FY 2004-2005 CHDO set-aside funds in the amount of $206,372 for Habitat for Humanity, Stanislaus, to assist them with the pre-development activities of Hope Village project, and

WHEREAS, on July 10, 2007, the City Council, by Resolution No. 2007-412, approved the allocation of additional CHDO set-aside funds in the amount of $196,611.75 to Habitat for Humanity, Stanislaus, to be utilized for pre-development activities for the Hope Village project, and

WHEREAS, on March 3, 2009, the City of Modesto received a letter from Habitat for Humanity requesting additional CHDO set-aside funds in the amount of $160,000 to cover pre-development activities, and $400,000 for construction costs for Hope Village, totaling $560,000 in gap funding, and

WHEREAS, on March 25, 2009, the Citizens’ Housing & Community Development Committee (CH&CDC) approved $343,000 of HOME CHDO set-aside funds previously allocated to WJC Development LLC. to be reallocated to Habitat for Humanity, Stanislaus, for the Hope Village project since this project is under construction and some units are close to being completed, and
WHEREAS, on March 25, 2009, the CH&CDC also recommended to fund Habitat for Humanity, Stanislaus, an additional $217,000 to cover the gap financing of $560,000 for the Hope Village project, and

WHEREAS, HOME funds will be released on a reimbursement basis. Habitat for Humanity must comply with HOME regulations and will be subject to HOME Program Audit requirements for non-profit organizations as defined in 24 CRF 92.205, and

WHEREAS, as a condition to the City’s obligation to disburse HOME funds, Habitat for Humanity must execute a City of Modesto HOME Loan Agreement, a Promissory Note, a Deed of Trust and a HOME Program Regulatory Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves additional HOME Investment Partnership Program, Community Housing Development Organization (CHDO) set-aside funds from FY 2007-2008 in the amount of $560,000 to be allocated to Habitat for Humanity, Stanislaus, to assist with pre-development and construction costs for the Hope Village single family housing project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreements and any related documents.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Lopez, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryan, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

SUSANA ALCALA WOOD, City Attorney

(Seal)
RESOLUTION NO. 2009-255

A RESOLUTION APPROVING A SUBORDINATION AGREEMENT FOR THE HOME LOAN PROVIDED TO STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR THE ACQUISITION OF CORTNEY MANOR, LOCATED AT 901 CALIFORNIA AVENUE, MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBORDINATION AGREEMENT AND RELATED DOCUMENTS

WHEREAS, the City receives HOME Investment Partnership Program (HOME) funds, and

WHEREAS, on February 16, 1999, the City Council, by Resolution 99-59, approved an allocation of HOME funds in the amount of $283,950 for STANCO, to assist with the acquisition of property located at 901 California Avenue, also known as Cortney Manor, and

WHEREAS, when STANCO acquired this property in 1999 the owners, Mr. and Mrs. Nygaard, carried a second note which has now come due. STANCO is in the process of refinancing this property to pay the second note, and

WHEREAS, in addition the refinance also provides STANCO with funds for a new roof, paint, dry rot repair, and other necessary repairs, and

WHEREAS, Cortney Manor has 18 units; eight of the units are HOME assisted units provided to low income individuals for transitional housing, and

WHEREAS, the financial institution lending the funds to STANCO is requiring as a condition to provide the loan that STANCO be and remain at all times prior and superior to other loans. The Subordination Agreement sets forth the priority of repayment rights against the borrower and its assets; in this case the City’s HOME loan will move from third position to second position,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Subordination Agreement for the HOME loan provided to Stanislaus County Affordable Housing Corporation (STANCO) for the acquisition of Cortney Manor, located at 901 California Avenue, Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Subordination Agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN WILLIAM HOLMES AND KANTHI KIRAN AND THE CITY OF MODESTO FOR REAL PROPERTY LOCATED AT 720 COLDWELL AVENUE (APN 110-001-004); AND AUTHORIZING THE CITY MANAGER, OR HIS DESEGINEE, TO EXECUTE THE PURCHASE AND SALES AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, the City of Modesto owns the property located at 720 Coldwell Avenue (APN 110-001-004), and

WHEREAS, a portion of the property has been used as an off-site facility for the City of Modesto Parks, Recreation and Neighborhoods Department, and

WHEREAS, at its May 19, 2008 through May 23, 2008, meetings, the Finance Committee supported staff's recommendation to sell the property located at 720 Coldwell Avenue, and

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-544, authorized staff to contract for real estate services for the sale of this property, and

WHEREAS, a proposal of $175,000 for the purchase of the property was offered by Great Valley Realtors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase and Sale Agreement with William Holmes and Kanthi Kiran for the property located at 720 Coldwell Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase and Sale Agreement and any related documents required to close escrow.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION APPROVING AN ADJUSTMENT TO THE FISCAL YEAR 2008/09 COMPOST OPERATIONS BUDGET TO TRANSFER $82,223 FROM THE COMPOST FUND (6290) TO THE FLEET FUND (7210) TO INCREASE THE AMOUNT SET ASIDE IN THE FLEET FUND FOR THE PURCHASE OF AN 18 YARD, HEAVY DUTY DUMP TRUCK, FOR A TOTAL ESTIMATED COST OF $135,000

WHEREAS, the City’s Compost Facility at 7001 Jennings Road uses a 1998 Peterbilt silage type-dump truck in combination with one other dump truck and two John Deere loaders to move compost material around on the site, and

WHEREAS, the dump truck has reached the end of its useful life, and has already been approved for replacement through Fleet’s 10-year equipment replacement program, and

WHEREAS, due to increases in heavy equipment costs and the Compost facility’s need for a heavier duty truck, the estimated $135,000 cost of replacing the dump truck exceeds the amount set aside in the Fleet Fund for replacement of the truck by $82,223, and

WHEREAS, the Compost Fund therefore needs to transfer funds to the Fleet Fund to pay for this purchase, and

WHEREAS, the Compost Facility’s 2008/09 revenues are projected to exceed expenditures by more than $100,000, and an adjustment to the operating budget adjustment is feasible,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an adjustment to the Fiscal Year 2008/09 Compost Operations budget to transfer $82,223 from the Compost Fund (6290) to the Fleet Fund (7210) to
increase the amount set aside in the Fleet Fund for the purchase of an 18-yard, heavy duty dump truck, for a total estimated cost of $135,000.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A TWO-YEAR STANDARD AGREEMENT FOR CONTRACT SERVICES WITH COMMUNITY REINVESTMENT FUND, INC. (CRF) FOR LOAN SERVICING OF EXISTING AND FUTURE LOANS WITH THREE, ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City loan portfolio includes housing rehabilitation loans, down payment assistant loan, HOME loans, Redevelopment Agency loans, and Capital Facilities Fees, and

WHEREAS, in 1994, Community Reinvestment Fund (CRF) began loan servicing the City’s portfolio, and

WHEREAS, in 2004, a new Request for Qualifications for loan servicing was issued and CRF was again awarded the City’s loan servicing with the Agreement expiring on June 30, 2009, and

WHEREAS, on February 12, 2009, a new RFQ was released with ten companies downloading the RFQ from the City’s purchasing website, and

WHEREAS, two proposals were received; CRF and AmeriNational Community Services, Inc. Both entities are out of state vendors, and

WHEREAS, the proposals were evaluated by a review committee using a point system for rating pricing, customer support, stability, experience, and overall responsiveness to the RFQ, and

WHEREAS, each member of the review committee scored CRF higher than AmeriNational Community Services, Inc. in each category, resulting in the recommendation of CRF as the continued loan servicer for the City, and
WHEREAS, CRF is a nonprofit organization that began operations in 1988 to provide capital to community development lenders in low-to-moderate income communities; their core service is to purchase loans so that the funds can be reinvested in the community, and

WHEREAS, CRF loan servicing includes the processing of monthly payments, sending payment coupons to customers, a toll free number for customers, collection efforts on past due loans, insurance tracking, processing of demand statements and subsequent payoffs, monthly reports to the City, and monthly check to the City for funds collected on the serviced loans, and

WHEREAS, the City will remain responsible for collection efforts on loans past due more than 90 days, follow-up for needed fire insurance, and releasing all liens for loans that have been paid, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) reviewed and supported this action at its April 16, 2009 meeting, and

WHEREAS, the Citizens Housing and Community Development Committee reviewed and supported this action at its April 22, 2009, meeting, and

WHEREAS, the City’s Finance Director has reviewed the CRF financial statement for fiscal health,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a two-year standard agreement with three, one-year extensions for contract services at the sole discretion of the City with Community Reinvestment Fund, Inc. (CRF) for loan servicing of existing and future loans, and
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his authorized designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember O’Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE 2009 ALCOHOLIC BEVERAGE CONTROL (ABC) GRANT PROJECT IN THE AMOUNT OF $100,000 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TO COMBAT ALCOHOL RELATED CRIMES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY AWARD DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Modesto ABC Project to be funded in part from funds made available through the Grant Assistance to Local Law Enforcement Agencies Project administered by the Department of Alcoholic Beverage Control (hereafter referred to as “ABC”), and

WHEREAS, the Police Department was awarded a grant in the sum of $100,000 from the State Department of Alcoholic Beverage Control, and

WHEREAS, acceptance of said $100,000 grant will allow agencies in Stanislaus County and other outlying areas to work in collaboration to proactively address alcohol related crimes in Stanislaus County,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2009 Alcoholic Beverage Control (ABC) Grant Project in the amount of $100,000 from the State Department of Alcoholic Beverage Control to combat alcohol related crimes,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary award documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

(Seal)

ATTEST: STEPHANIE LOPEZ, City Clerk
A RESOLUTION AMENDING THE 2009/2010 OPERATING BUDGET, REVENUES AND EXPENSES IN THE AMOUNT OF $100,000 RELATED TO THE 2009 ALCOHOLIC BEVERAGE CONTROL (ABC) GRANT PROJECT TO COMBAT ALCOHOL RELATED CRIMES

WHEREAS, the Police Department acquired a grant award in the sum of $100,000 from the State Department of Alcoholic Beverage Control for several programs developed to reduce alcohol related crimes, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2009/2010 Operating Budget Operational Grants Fund is hereby adjusted as indicated below to initiate said grant project:

<table>
<thead>
<tr>
<th>Expense:</th>
<th>To:</th>
<th>0410-190-2992-0130</th>
<th>$62,500</th>
<th>Officers’ Overtime Hours Cost</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>0410-190-2992-0240</td>
<td>30,000</td>
<td>Intergovernmental Services</td>
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<td></td>
<td>0410-190-2992-0262</td>
<td>1,500</td>
<td>Officers’ Operating Expenses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0410-190-2992-0356</td>
<td>2,500</td>
<td>Program Equipment</td>
</tr>
<tr>
<td></td>
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<td>Required Conferences</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>$100,000</td>
<td></td>
</tr>
<tr>
<td>Revenue:</td>
<td>TO:</td>
<td>0410-190-2992-3190</td>
<td>$100,000</td>
<td>ABC Grant Funds</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 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By:

SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM FISCAL YEAR 2009 LOCAL SOLICITATION AUTHORIZING A JOINT APPLICATION WITH THE COUNTY OF STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION UPON AWARD

WHEREAS, the allocation of Edward Byrne Memorial Justice Assistance Grant (JAG) is based on a formula of population and violent crime statistics, in combination with a minimum allocation to ensure that each state and territory received an appropriate share of funding, and

WHEREAS, the JAG Program allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions, and

WHEREAS, the City of Modesto Police Department is eligible to apply for $162,858 and Stanislaus County is eligible for $100,476, and

WHEREAS, the City of Modesto Police Department is considered a “disparate” under the terms of this grant because the City is eligible to receive one and one-half times more than a County (150% more than the County with concurrent jurisdiction), and

WHEREAS, the Modesto Police Department and Stanislaus County are required to submit a joint application for the total eligible allocation of $263,334, and

WHEREAS, recommended distribution of the 2009 JAG funds is as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation</td>
<td>$32,153</td>
</tr>
<tr>
<td>Sheriff</td>
<td>$65,309</td>
</tr>
<tr>
<td>Sheriff (Admin) Fee</td>
<td>$7,900</td>
</tr>
<tr>
<td>Modesto Police Department</td>
<td>$157,972</td>
</tr>
</tbody>
</table>
WHEREAS, the City of Modesto will use its allocation to offset police overtime costs for the Downtown Entertainment District, and

WHEREAS, there is no match required for this grant, and

WHEREAS, the awards are made in the first fiscal year of the appropriation and may be expended during the following three years for a total of four years, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant, and

WHEREAS, the County will charge the City a three percent (3%) administrative fee in the amount of $4,886 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City's total projected grant award to $157,972 ($162,858 less the 3% administrative fee of $4,886), and

WHEREAS, the grant requires that a trust fund must be established for fund deposits, and funds cannot be commingled with funds from any other source, and

WHEREAS, the Memorandum of Agreement states that the City agrees to provide the County a quarterly financial and programmatic report not later than five calendar days after the end of the quarter, and

WHEREAS, grant requires a signed Memorandum of Understanding for the application,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Agreement between the County of Stanislaus and the City of Modesto for the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program Fiscal Year 2009 Local Solicitation, authorizing a joint application with the County of Stanislaus.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant application upon award.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-262

A RESOLUTION AMENDING THE MULTI-YEAR 2009/10 OPERATING
BUDGET, ESTIMATING REVENUE OF $162,858 TO THE CITY OF
MODESTO, AND APPROPRIATING FUNDS IN ORGANIZATION 0420-190-
2001, UPON ACCEPTANCE OF THE GRANT

WHEREAS, the allocation of JAG grants is based on a formula of population and
violent crime statistics, in combination with a minimum allocation to ensure that each
state and territory received an appropriate share of funding, and

WHEREAS, the JAG program allows states, tribes and local governments to
support a broad range of activities to prevent and control crime based on their own local
needs and conditions, and

WHEREAS, the City of Modesto Police Department is eligible to apply for
$162,858 and Stanislaus County is eligible for $100,476, and

WHEREAS, the City of Modesto Police Department is considered a “disparate”
allocation under the terms of this grant because the City is eligible to receive, one and
one-half times more than the County (150% more than the County with concurrent
jurisdiction), and

WHEREAS, the Modesto Police Department and Stanislaus County are required
to submit a joint application for the total eligible allocation of $263,334, and

WHEREAS, recommended distribution of the 2009 JAG funds is as follows:

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation</td>
<td>$32,153</td>
</tr>
<tr>
<td>Sheriff</td>
<td>$65,309</td>
</tr>
<tr>
<td>Sheriff (Administrative Fee)</td>
<td>$7,900</td>
</tr>
<tr>
<td>Modesto Police Department</td>
<td>$157,972</td>
</tr>
</tbody>
</table>

WHEREAS, the City of Modesto will use its allocation to offset police overtime
costs for the Downtown Entertainment District, and
WHEREAS, there is no match required for this grant, and

WHEREAS, the awards are made in the first fiscal year of the appropriation and may be expended during the following three years for a total of four years, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant, and

WHEREAS, the County will charge the City a three percent (3%) administrative fee in the amount of $4,886 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City’s total available proceeds from the grant award by $4,886.00 and

WHEREAS, the grant requires that a trust fund must be established for fund deposits, and funds cannot be commingled with funds from any other source, and

WHEREAS, the Agreement states that the City agrees to provide the County a quarterly financial and programmatic report not later than five calendar days after the end of the quarter, and

WHEREAS, the project start period is July 1, 2009, and there is a statutory four-year period within which to spend funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 Operating Budget as indicated in Attachment A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution upon award of grant.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
## Attachment A: Budget Adjustment

**Fund 0420:**

<table>
<thead>
<tr>
<th>Expense</th>
<th>To:</th>
<th>Amount</th>
<th>Description</th>
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<tbody>
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<td>157,972</td>
<td>Overtime</td>
</tr>
<tr>
<td></td>
<td>0420-190-2001-0260</td>
<td>4,886</td>
<td>Misc – Admin Fee</td>
</tr>
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</table>

<table>
<thead>
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<th>Revenue</th>
<th>To:</th>
<th>Amount</th>
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<td>0420-190-2001-3309</td>
<td>162,858</td>
<td>Co - BJAG Formula Rev</td>
</tr>
</tbody>
</table>
A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) TO REBUILD THE PUMP UNITS OF THREE FIXED FILM REACTORS AT AN ESTIMATED COST OF $215,700, WITH $20,000 IN STAFF TIME COSTS, FOR A TOTAL ESTIMATED COST OF $235,700

WHEREAS, the Jennings Treatment Plant has three (3) Fixed Film Reactors (FFRs) as part of its current infrastructure, and

WHEREAS, currently, two (2) FFRs are used in the biological process during secondary wastewater treatment, and

WHEREAS, the FFR pump units, which include a 125 hp motor, are the original equipment installed with the FFRs in the mid-1980s, and

WHEREAS, the cost to rebuild each pump unit is approximately 75% less than purchasing new pump units, and

WHEREAS, there are a total of six (6) pump units that need to be rebuilt to factory operating condition, and

WHEREAS, once rebuilt the pump units will last approximately 20 – 25 years, and

WHEREAS, City staff will remove and reinstall the pump units at the FFRs, and

WHEREAS, funds are budgeted in CIP Account Number 6210-480-B107 to rebuild and reinstall the FFR pump units, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal request for bids to rebuild pump units of three (3) Fixed Film Reactors at an estimated cost of $215,700.

BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase agreement for the total estimated cost of $215,700.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-264

A RESOLUTION APPROVING THE AMENDMENT TO AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. FOR DESIGN MODIFICATIONS OF THE PLANS FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT IN AN AMOUNT NOT TO EXCEED $4,260, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on March 11, 2008, by Resolution 2008-161, Council approved an agreement with Pacific Design Associates Inc. to prepare a final project design for the Water Quality Control (WQC) Laboratory Remodel project, and

WHEREAS, on April 7, 2009, by Resolution 2009-156, Council awarded the construction contract for the WQC Laboratory Remodel project to Huff Construction Company, Inc. of Modesto, and

WHEREAS, the Laboratory Remodel project is underway and proceeding as planned, and

WHEREAS, this request is a minor amendment to the design contract to take advantage of the opportunity to consolidate administrative office workspace in a more efficient manner, and

WHEREAS, the proposal will reduce duplicate break areas and increase office space within the existing footprint of the Administration Building, and in a more efficient manner, and

WHEREAS, this change is consistent with department goals to create additional/improved work space for existing staff, and

WHEREAS, this amendment provides the scope of work for construction, and
WHEREAS, the proposed changes are: (a) Delete original contract work in the existing lunch room space and produce savings; (b) Reduce the size of the existing lunchroom and relocate to the end of the hallway; and (c) Provide additional work spaces, and

WHEREAS, the additional costs of construction will be estimated as part of this amendment. If additional budget or Director’s Authority to issue change orders is required to construct these changes, staff will return to Council for consideration, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, as the City does not have the staffing level or subject matter expertise to complete the WQC Laboratory Remodel project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Design Services of WQC Laboratory Remodel with Pacific Design Associates, Inc. for an amount not to exceed $4,260 for the additional services for the project titled, “Water Quality Control Lab Remodel”.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-265

A RESOLUTION APPROVING (1) A PURCHASE AND SALE AGREEMENT WITH ESCROW INSTRUCTIONS BETWEEN THE CITY OF MODESTO AND AUSTIN PARKS AND FRANCES PARKS, TRUSTEES OF THE AUSTIN AND FRANCES PARKS FAMILY TRUST, A TRUST FOR PROPERTY LOCATED AT 1517 10TH STREET, IN THE AMOUNT OF $239,595.00, AND (2) A GRANT DEED, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, GRANT DEED, AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto owns the property at 1517 10th Street (APN: 105-047-002), and

WHEREAS, the Kansas-Needham Overhead Project constructed an overhead crossing from the intersection of College and Needham Avenues and 10th Street to the intersection of Franklin and Beech Streets, the future connection to Highway 132, and

WHEREAS, the project design produced a remnant parcel with some degree of limited use, due to the location and limited access, and

WHEREAS, the property is surplus to the City’s needs and there are no other City uses for this property, and

WHEREAS, on January 6, 2009, by Resolution No. 2009-027, Council authorized staff to declare the City-owned property located at 1517 10th Street (APN: 105-047-002) as surplus property and authorized the City’s property agent to proceed with the sale of this property, and

WHEREAS, staff recommends the City’s property agent proceed with the sale of this property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves (1) a Purchase and Sale Agreement With Escrow Instructions
between the City of Modesto and Austin Parks and Frances Parks, Trustees of the Austin and Frances Parks Family Trust, a Trust for property located at 1517 10th Street, in the amount of $239,595.00, and (2) a Grant Deed.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Agreement, Grant Deed, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A JOINT RESOLUTION OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY OF THE CITY OF MODESTO AUTHORIZING THE CITY ATTORNEY/REDEVELOPMENT AGENCY GENERAL COUNSEL TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, THE CALIFORNIA REDEVELOPMENT ASSOCIATION, OTHER CITIES AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET MAINTENANCE AND REDEVELOPMENT FUNDS

WHEREAS, the current economic crisis has placed the City of Modesto and other cities under incredible financial pressure and caused them to make painful budget cuts, including layoffs and furloughs of City workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues, and

WHEREAS, since the early 1990s the State Government of California has seized over $10 billion of City property tax revenues statewide, now amounting to over $900 million each year, to fund the State Budget even after deducting public safety program payments to cities by the state, and

WHEREAS, on April 30, 2009, in the case of CRA v. Genest, the Sacramento Superior Court found similar efforts by the State to seize redevelopment tax increment for the state general fund to be in direct violation of Article XVI, Section 16 of the State Constitution, added by the voters in 1952 as Proposition 18, which requires that tax increment be used exclusively for the benefit of redevelopment project areas; and

WHEREAS, since the early 1990s the state government also has seized $1.04 billion of redevelopment tax increment statewide, and the Governor and Legislature are...
now considering seizing $350 million each year for three years, beginning in the current fiscal year; and

WHEREAS, in the State of California’s proposed FY 2009-10 Budget, the Governor has proposed transferring $1 billion of local gas taxes and weight fees to the State General Fund to balance the State Budget, and over $700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain its Surface Transportation Program, which consists of street maintenance operations, traffic operations and electrical operations, traffic engineering, forestry cycle pruning, curb, gutter, and sidewalk repair, Capital Improvement Program projects for streets, and related traffic safety facilities for the use of the motoring public, and

WHEREAS, the loss of almost all of the City’s gas tax funds will seriously compromise the City’s ability to perform critical traffic safety-related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, street trees and cycle pruning, sidewalk and curb ramp maintenance and repair, and more, and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, there is a serious concern about significant impacts, including increased traffic accidents and injuries and the potential for additional liability that could result due to deferred maintenance of streets should these funds be lost, and
WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state’s ability to do what the Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the State Constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%, and

WHEREAS, ongoing street maintenance is a significant public safety concern. Lack of proper maintenance of street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights can have a direct correlation to traffic accidents, injuries, and deaths, and

WHEREAS, according to a recent statewide needs assessment\(^1\) on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or “at risk.” Local streets and roads will fall to “poor” condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL AND THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO hereby directs the City Attorney/Redevelopment Agency General Counsel to take all necessary steps to cooperate with the League of California Cities, California Redevelopment Association, other cities, counties and redevelopment agencies in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the redevelopment tax increment and the City’s share of

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\(^{1}\) *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.
funding from the Highway Users Tax Account (HUTA), also known as the “gas tax,” to fund the state general fund; and

BE IT RESOLVED FURTHER, that the city manager/agency executive director or clerk shall send this resolution with an accompanying letter from the mayor/agency chair to the Governor and each of the city’s state legislators, informing them in the clearest of terms of the City’s adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 18 (1952), Proposition 5 (1974) and Proposition 2 (1998) concerning the proper use and allocation of the redevelopment tax increment and the gas tax; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be sent by the City Clerk to the League of California Cities, the California Redevelopment Association, the Modesto Chamber of Commerce, and other community groups whose members are affected by this proposal to divert funds from vital local services and projects.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto and the Redevelopment Agency held on the 23rd day of June, 2009, by Councilmember/Agency member Hawn, who moved its adoption, which motion being duly seconded by Councilmember/Agency member Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers/Agency members: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers/Agency members: None

ABSENT: Councilmembers/Agency members: None

ATTEST: STEPHANIE LOPEZ
City Clerk / Agency Secretary

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD,
City Attorney/Agency General Counsel
A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEES’ ASSOCIATION FOR A TERM OF JUNE 23, 2009 THROUGH JUNE 21, 2010

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees’ Association (MCEA) will expire on June 22, 2009, and

WHEREAS, representatives of the CITY and the MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCEA have reached agreement on a new MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. MANDATORY FURLOUGHS. For fiscal year 2009-2010, each bargaining unit member shall take 96-hours of mandatory furloughs. For twenty-four (24) pay periods beginning July 7, 2009, each bargaining unit member shall have four (4) unpaid furlough hours deducted from his/her paycheck, for a total of ninety-six (96) hours during fiscal year 2009-2010. Effective July 7, 2009 the City shall create for each member a furlough bank of ninety-six (96) hours. Between July 7, 2009 and June 21, 2010, the Department Director or designated representative shall ensure that all members exhaust all ninety-six (96) hours in the furlough bank in a manner that does not result in an increase in overtime cost, where applicable, due to the vacancy left by the furloughed employee. Furlough hours that have been deducted and banked but have not been taken
as time off by June 21, 2010, shall be forfeited by the employee and shall not be cashed out. It is the City’s intent to batch some of the furlough days around holidays to maximize savings to the City. The exact language of this provision shall be set forth in the MOU between the City and MCEA.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The CITY’s contribution to employees’ Health, Dental and Vision coverage shall be as follows:

<table>
<thead>
<tr>
<th></th>
<th>7/22/08</th>
<th>7/21/09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>$957</td>
<td>$1050</td>
</tr>
<tr>
<td>Employee Only</td>
<td>535</td>
<td>$596</td>
</tr>
<tr>
<td>Opt Out</td>
<td>425</td>
<td>$450</td>
</tr>
</tbody>
</table>

The MOU removes the provision that the CITY’s contribution for Employee Only coverage will be 100% of the premium for the lowest cost HMO plan (including dental and vision).

SECTION 4. LAYOFF AND DEMOTION PROCEDURES. Minor revisions to reflect current practice. One time agreement to allow employees to bump to previously held position in prior department in employee would otherwise be laid off. This provision expires at the end of the MOU.

SECTION 5. SPECIAL ASSIGNMENT PAY. Provides a $5 differential for each shift in which an employee operates a crane.

SECTION 6. ADDITIONAL CHANGES. Changes to the MOU also include changing performance evaluation language from “below standard” to “does not meet standard”, changes title for special assignment pay from Waste Water Treatment Plant Operator III, consistent with new titles, amends language for Acting and Out of Class Pay to reflect actual practice; changes internal reference of standby pay to reflect appropriate attachment; amends uniform language to clarify who can authorize an employee who is
provided a uniform to wear street clothes and removes the requirement to wear the City logo “on the pocket area”; clarifies the process for requesting time off using time bank; changes deduction from up to ½ hour two times per year to one hour one time per year and changes the process for renewal of previously approved outside employment agreements.

WHEREAS, the Council considered this matter at its meeting of June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding between the City of Modesto and Modesto City Employees’ Association contingent upon an affirmative ratification vote by MCEA membership, which covers a term from June 23, 2009 through June 21, 2010, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) will expire on June 22, 2009, and

WHEREAS, representatives of the CITY and the MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated June 17, 2009, a copy of which report is on file in the office of the City Clerk, the CITY and MCMA have reached agreement on a new MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. MANDATORY FURLoughs. For fiscal year 2009-2010, each bargaining unit member shall take 96-hours of mandatory furloughs. For twenty-four (24) pay periods beginning July 7, 2009, each bargaining unit member shall have four (4) unpaid furlough hours deducted from his/her paycheck, for a total of ninety-six (96) hours during fiscal year 2009-2010. Effective July 7, 2009 the City shall create for each member a furlough bank of ninety-six (96) hours. Between July 7, 2009 and June 21, 2010, the Department Director or designated representative shall ensure that all members exhaust all ninety-six (96) hours in the furlough bank in a manner that does not result in
an increase in overtime cost, where applicable, due to the vacancy left by the furloughed employee. Furlough hours that have been deducted and banked but have not been taken as time off by June 21, 2010, shall be forfeited by the employee and shall not be cashed out. It is the City’s intent to batch some of the furlough days around holidays to maximize savings to the City. However, at least half the furlough days will be non-fixed so that employees can schedule them in the same manner as vacation is scheduled. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The CITY’s contribution to employees’ Health, Dental and Vision coverage shall be as follows:

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<tr>
<th>Total Contributions (monthly)</th>
<th>7/22/08</th>
<th>7/21/09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>$957</td>
<td>$1050</td>
</tr>
<tr>
<td>Employee Only</td>
<td>$535</td>
<td>$596</td>
</tr>
<tr>
<td>Opt Out</td>
<td>$425</td>
<td>$450</td>
</tr>
</tbody>
</table>

The MOU provides that during the term of the MOU, the CITY’s contribution for Employee Only coverage effective July 21, 2009 shall not exceed the actual premium amount for the lowest cost HMO (including dental and vision) offered by the City. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 3. MANAGEMENT/CONFIDENTIAL LEAVE. During fiscal year 2009-2010, the ability of bargaining unit members to cash out management/confidential leave shall be suspended.

SECTION 4. LAYOFF AND DEMOTION PROCEDURES. The language of the layoff and demotion provision of the MOU is modified so that for purposes of
calculating seniority employees will not lose one year of service credit for a “meets expectations” performance evaluation. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 6. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the July 22, 2008, through June 22, 2009, MOU between the CITY and MCMA shall continue in the new MOU.

WHEREAS, the Council considered this matter at its meeting of June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association contingent upon an affirmative ratification vote by MCMA membership, which covers a term from June 23, 2009 through June 22, 2010, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A MODIFIED MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY FIRE FIGHTERS ASSOCIATION (MCFFA) FOR A TERM OF DECEMBER 26, 2006 THROUGH DECEMBER 19, 2011

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Fire Fighters Association (MCFFA) expires on December 20, 2010, and

WHEREAS, representatives of the CITY and the MCFFA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated June 17, 2009, a copy of which report is on file in the office of the City Clerk, the CITY and MCFFA have reached agreement on a modified and extended MOU with a new expiration date of December 19, 2011 which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. ROLLOVER OF EXSTING PROVISIONS. All provisions of the existing MOU are rolled-over except as detailed below.

SECTION 2 SALARY INCREASES. Across-the-board salary increases shall be effective as follows:

0% for FY 09-10
3% effective June 22, 2010
3% effective December 21, 2010
2.5% effective June 21, 2011
SECTION 3. HEALTH, DENTAL AND VISION BENEFITS. Effective July 2009 the CITY shall make a contribution the Health Savings Account (HSA) of $25 per month for each employee. Effective July 2010 the monthly contribution to the HSA shall increase by $25 to $50 per month. This HSA contribution shall end at the end of the contract term. Effective January 1, 2011 the amount that is contributed by the CITY to Family health coverage shall increase by up to $136 per month and a proportionate increase for other tiers of health coverage.

SECTION 8. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the December 26, 2006 through December 20, 2010 MOU between the CITY and MCFFA shall continue in the revised and extended MOU.

WHEREAS, the Council considered this matter at its meeting of June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Fire Fighters Association (MCFFA) contingent upon an affirmative ratification vote by MCFFA membership, which covers a term from December 26, 2006 through December 19, 2011, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of June, 2009, by Councilmember Marsh, who
moved its adoption, which motion being duly seconded by Councilmember Hawn, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SIGNATURE)

APPROVED AS TO FORM:

By:  

(SIGNATURE)

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED MAY 2009, FOR THE PHASE 2 BIOLOGICAL NUTRIENT REMOVAL (BNR)/TERTIARY TREATMENT PROJECT AS COMPLETE

WHEREAS, the Regional Water Quality Control Board (RWQCB) issued a new tentative waste discharge permit (Permit No. CA0079103) on April 25, 2008, which contained limits more restrictive than those indicated in the City’s 2007 Wastewater Master Plan (WWMP), and

WHEREAS, in order to meet the state-mandated regulatory requirements, the City will need to design and construct an additional Phase 2 BNR/Tertiary Treatment facility at the Jennings Road Water Quality Control (WQC) Facility, and

WHEREAS, on December 2, 2008, by Resolution 2008-656, the City Council approved an agreement with Carollo Engineers, P.C. of Walnut Creek to prepare the Phase 2 Project Preliminary Design Report (PDR), and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the 35% PDR has been successfully completed and will serve as the basis for the final design of the Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated May 2009, for the Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment project as complete as complete.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-271

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR FINAL DESIGN SERVICES FOR PHASE 2 BIOLOGICAL NUTRIENT REMOVAL/TERTIARY TREATMENT FACILITY IN AN AMOUNT NOT TO EXCEED $5,473,900 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $273,695 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $5,747,595, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in order to meet the state mandated regulatory requirements, the City will need to design and construct an additional Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility (Phase 2) Project at the Jennings Road Water Quality Control (WQC) Facility, and

WHEREAS, on December 2, 2008, by Resolution 2008-656, the City Council approved an agreement with Carollo Engineers, P.C. of Walnut Creek to prepare the Preliminary Design Report (PDR) for Phase 2 Project, and

WHEREAS, the PDR titled “Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility,” summarizes existing facilities, establishes project design criteria and method of design, identifies critical project elements and provides an estimated construction cost of $135 million for the Phase 2 Project, and

WHEREAS, Carollo Engineers, P.C. (Carollo) successfully completed the PDR, and

WHEREAS, this Final Design Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the project, and

WHEREAS, City staff recommends approving an Agreement with Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to
complete the Final Design Services for Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Facility, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, P.C. for final design services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility in an amount not to exceed $5,473,900 for the identified scope of services, plus $273,695 for additional services (if needed), for a maximum total amount of $5,747,595.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(S Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-272

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR FINAL DESIGN SERVICES FOR PHASE 2 BIOLOGICAL NUTRIENT REMOVAL/TERTIARY TREATMENT FACILITY, INCLUDING ENGINEERING/DESIGN/ADMINISTRATION SUPPORT

WHEREAS, a budget adjustment in the amount of $2,500,000 is necessary to fully fund the agreement with Carollo Engineers, P.C. for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility, and

WHEREAS, in order to fully fund final design of the project and engineering/design/administration support a transfer from Wastewater Reserves to the CIP account is required, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended as shown in Exhibit A, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget as shown in Exhibit A.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

**NOES:** Councilmembers: None

**ABSENT:** Councilmembers: None

**APPROVED AS TO FORM:**

By: SUSANA ALCALA WOOD, City Attorney

(SEAL)

ATTEST: STEPHANIE LOPEZ, City Clerk

2009-272
FUND:

Wastewater Fund

EXPENDITURES: Increase/(Decrease)

Wastewater Reserves 6210-800-8000-8003 ($2,500,000)

WW Treatment Phase 2 Tertiary 6210-430-B061-6010 $2,500,000
A RESOLUTION AMENDING THE 2009-2010 OPERATING BUDGET TO REFLECT CHANGES IN REVENUE AND EXPENSE ASSUMPTIONS NEEDED TO BRING THE UNRESTRICTED RESERVE OF THE GENERAL FUND TO A 7% LEVEL

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget for the 2009-10 Fiscal Year to the Finance Committee at workshops held during the week of May 18, 2009, and

WHEREAS, the Finance Committee recommended to the full City Council, a Proposed Fiscal Year 2009-2010 Operating Budget during a public hearing held on June 2, 2009, and

WHEREAS, the City Council adopted the Proposed Fiscal Year 2009-2010 Operating Budget on June 2, 2009, and

WHEREAS, the Adopted Fiscal Year 2009-2010 Operating Budget reflects an unrestricted General Fund reserve level that is $4.8 million below the amount required by City Council policy and the City Council has been presented with recommendations to restore the reserve to the required amount during its regularly scheduled meeting held on June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Adopted Operating Budget as shown in Exhibit A which is incorporated by reference herein. With adoption of this amendment the General Fund unrestricted reserve is restored to a 7% level per Council policy.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(S Seal)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
## FINANCE COMMITTEE ACCEPTED FY 2009-10 ADDITIONAL GF REDUCTIONS

### FY 2009-10 GENERAL FUND ADDITIONAL REDUCTIONS LIST

<table>
<thead>
<tr>
<th>Category (Exp/Exp)</th>
<th>Dept</th>
<th>Class Title of Vendor Name</th>
<th>If Position is Filled, place on X in this column</th>
<th>Full-time Employees</th>
<th>Part-time Employees</th>
<th>Proposed Budget Adjustment (explain in detail service being reduced/reduced)</th>
<th>Increase</th>
<th>Decrease</th>
<th>Program Impact</th>
<th>Frequency (Time Line vs. Ongoing)</th>
<th>Mayor/Agency Accepted</th>
<th>Finance Committee Accepted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exp</td>
<td>All</td>
<td>Pending Corrections - MICEA</td>
<td>$310,943</td>
<td></td>
<td></td>
<td>Equivalent of 96 hours of labor</td>
<td></td>
<td></td>
<td></td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>All</td>
<td>Pending Corrections - MCBA</td>
<td>$388,493</td>
<td></td>
<td></td>
<td>Equivalent of 96 hours of labor</td>
<td></td>
<td></td>
<td></td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>All</td>
<td>96 hours of labor - unrepresented staff including Executives and Cluster Officers</td>
<td>$211,841</td>
<td></td>
<td></td>
<td>This reduction was approved by Council on June 2, but was not included in the Mayor's original budget recommendations as it is appropriate to include it now.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acceptable</td>
</tr>
<tr>
<td>Exp</td>
<td>Human Resources</td>
<td>Business Expenses, Advertising, Professional Services</td>
<td>$208 - (1,000); 225 - (500); 225 = (500)</td>
<td></td>
<td></td>
<td>Additional reductions in expenses related to staff and travel. Advertising budget eliminated. Reductions in professional services related to rental of rental office in advertising.</td>
<td></td>
<td>$8,800</td>
<td>Eliminate funding for staff and travel. Advertising budget eliminated. Reductions in professional services related to rental office in advertising.</td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Acceptable</td>
</tr>
<tr>
<td>Exp</td>
<td>Human Resources</td>
<td>Office Supplies</td>
<td>$1,181</td>
<td></td>
<td></td>
<td>Reduction in office supplies. Anticipates reduced staff usage of supplies.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acceptable</td>
</tr>
<tr>
<td>Exp</td>
<td>Human Resources</td>
<td>Membership and dues</td>
<td>$220</td>
<td></td>
<td></td>
<td>Reduction in memberships</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acceptable</td>
</tr>
<tr>
<td>Exp</td>
<td>Human Resources</td>
<td>Salary and Benefits</td>
<td>$100,000</td>
<td></td>
<td></td>
<td>Eliminate HR position pending departmental organization restructuring.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acceptable</td>
</tr>
<tr>
<td>Rev</td>
<td>Community and Economic Development</td>
<td>Salary and Benefits - Increase</td>
<td>$401,600</td>
<td></td>
<td></td>
<td>Additional revenue from CMAF projects that will be directed by the Engineering Staff for LDE. Private revenue generation, service delivery agreements, and fees. $100,000 of this funding will be used to retain the Assistant Engineer position included in the CMAF reductions already accepted by the Finance Committee.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acceptable</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Salary and Benefits - Increase</td>
<td>$110,004</td>
<td></td>
<td></td>
<td>Restoration of Assistant Engineer position that was eliminated in June 2, 2009 Council Adopted Reductions.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Ongoing</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Kramer Tellico Consultant contract</td>
<td>122</td>
<td></td>
<td></td>
<td>Kramer Tellico Consultant contract</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>One-time</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Printing &amp; Binding</td>
<td>$2,000</td>
<td></td>
<td></td>
<td>This reduction eliminates the ability to print documents necessary for business attraction and retention. This reduces the advertising budget to $2,000 for business attraction and retention. This significantly impacts the Department's ability to attract and retain businesses in the City of Madison.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acceptable</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Advertising</td>
<td>$8,000</td>
<td></td>
<td></td>
<td>This reduction in the advertising budget will impact the Department's ability to attract and retain businesses in the City of Madison.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Office Supplies</td>
<td>$1,000</td>
<td></td>
<td></td>
<td>This reduction in office supplies will impact the Department's ability to attract and retain businesses in the City of Madison.</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>PE Pay for ABCO</td>
<td>$7,584</td>
<td></td>
<td></td>
<td>The incumbent has announced his retirement. This reduction anticipates the successor will NOT have a PE Certification.</td>
<td></td>
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<td></td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Printing &amp; Binding</td>
<td>$1,500</td>
<td></td>
<td></td>
<td>This reduction will impact the LDE Division's ability to prepare documents for distribution.</td>
<td></td>
<td></td>
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<td></td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Office Supplies</td>
<td>$300</td>
<td></td>
<td></td>
<td>This reduction in office supplies will impact the Division's ability to produce and duplicate documents for staff and the public.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>Office Supplies</td>
<td>$1,000</td>
<td></td>
<td></td>
<td>This reduction in office supplies for the Planning Division will impact the Division's ability to produce and duplicate documents for staff and the public.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Accepted</td>
</tr>
</tbody>
</table>
## FY 2009-10 GENERAL FUND ADDITIONAL REDUCTIONS LIST

<table>
<thead>
<tr>
<th>Category (New/Existing)</th>
<th>Dept</th>
<th>Position Title</th>
<th>Full-time Employee</th>
<th>Part-time Employee</th>
<th>Proposed Budget Adjustment</th>
<th>Program Impact</th>
<th>Frequency (One Time vs. Ongoing)</th>
<th>Mayor Accepted/Declined</th>
<th>Finance Committee Accepted/Declined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>1</td>
<td>Training</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>1</td>
<td>Fleet Savings</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Exp</td>
<td>Community and Economic Development</td>
<td>1</td>
<td>Professional Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
<td>1.0</td>
<td>Part-Time Wages - Elimination - position not currently filled</td>
<td>$7,000</td>
<td>Planning/Mapping Programs</td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
<td>1.0</td>
<td>Part-Time Wages - Elimination - position not currently filled</td>
<td>$7,000</td>
<td>Planning/Mapping Programs</td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Accepted</td>
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<td>Exp</td>
<td>Fire</td>
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<td>$7,000</td>
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<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
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<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
<td>1.0</td>
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<td>Ongoing</td>
<td>Accepted</td>
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<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
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<td>Part-Time Wages - Elimination - position not currently filled</td>
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<td>Planning/Mapping Programs</td>
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<td>Accepted</td>
<td>Accepted</td>
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<tr>
<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
<td>1.0</td>
<td>Part-Time Wages - Elimination - position not currently filled</td>
<td>$7,000</td>
<td>Planning/Mapping Programs</td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
<td>1.0</td>
<td>Part-Time Wages - Elimination - position not currently filled</td>
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<td>Planning/Mapping Programs</td>
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<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Exp</td>
<td>Fire</td>
<td>Part-time Employee (Vendors)</td>
<td>1.0</td>
<td>Part-Time Wages - Elimination - position not currently filled</td>
<td>$7,000</td>
<td>Planning/Mapping Programs</td>
<td>Ongoing</td>
<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Category (Total Exp.)</td>
<td>Dept</td>
<td>Position (List salaries and benefits combined as one line with a object description of 0149 &amp; 0185). If contract are (List each service)</td>
<td>Class Title or Vendor Name</td>
<td>If position is filled, place an X in this column</td>
<td>Full-time Employees</td>
<td>Part-time Employees</td>
<td>Proposed Budget Adjustment (program to detail service being reduced/eliminated)</td>
<td>Increase</td>
<td>Decrease</td>
</tr>
<tr>
<td>----------------------</td>
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<td>-------------------------------------------------------------------------------------------------</td>
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<td>--------------------</td>
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<td>---------</td>
</tr>
<tr>
<td>Exp</td>
<td>Parks, Recreation and Neighborhoods</td>
<td>0149 = (5,210 + 13,769); 0185 = (3,267); 0269 = (15,860)</td>
<td>Elimination of part time Museum Registrar and part time Ferial Coordinator, Reduction in set up services</td>
<td>X</td>
<td>2.0</td>
<td>Elimination of Night Guard program. If Night Guard program is eliminated, there is no need for Police Dept. to approve.</td>
<td>$28,888</td>
<td>-</td>
<td>This reduction will reduce the recording of McHenry Museum pieces. This reduction may reduce a ability to rent Museum and Mammoth spaces and increase the workload for other staff members. Events will take longer to set up.</td>
</tr>
<tr>
<td>Exp</td>
<td>Parks, Recreation and Neighborhoods</td>
<td>0149 = (5,000); 0269 = (3,569)</td>
<td>Eliminate funding for the Mobile Skate Cities program at the end of the contract</td>
<td>X</td>
<td>1.0</td>
<td>Eliminate a custodian at PD</td>
<td>$27,597</td>
<td>-</td>
<td>The program can be eliminated with a one year notice</td>
</tr>
<tr>
<td>Exp</td>
<td>Parks, Recreation and Neighborhoods</td>
<td></td>
<td>Increase impact fee on garbage company to allowable rate of 10.2%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$60,000</td>
<td></td>
</tr>
<tr>
<td>Exp</td>
<td>Parks, Recreation and Neighborhoods</td>
<td></td>
<td>Increase of lease to Public Works Administration</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>$6,000</td>
<td></td>
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<tr>
<td>Exp</td>
<td>Public Works</td>
<td></td>
<td>Eliminate service credit to Public Works Administration</td>
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<td></td>
<td></td>
<td></td>
<td>$391</td>
<td></td>
</tr>
<tr>
<td>Exp</td>
<td>Public Works</td>
<td></td>
<td>Eliminate overtime in graffiti control</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$6,000</td>
<td></td>
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<tr>
<td>Exp</td>
<td>Public Works</td>
<td></td>
<td>Materials</td>
<td></td>
<td></td>
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<td></td>
<td>$2,980</td>
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<tr>
<td>Exp</td>
<td>Building Services</td>
<td></td>
<td>Custodian II Salary and Benefits</td>
<td>X</td>
<td>1.0</td>
<td>Eliminate one custodian at PD</td>
<td>$55,850</td>
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<td>Reduction in custodial work at PD</td>
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<tr>
<td>Exp</td>
<td>Building Services</td>
<td></td>
<td>Custodial Service Contract with PSS</td>
<td></td>
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<td></td>
<td>$8,300</td>
<td></td>
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<td>Building Services</td>
<td></td>
<td>Custodial Service Contract with PSS</td>
<td></td>
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<td>$4,567</td>
<td></td>
</tr>
<tr>
<td>Exp</td>
<td>Building Services</td>
<td></td>
<td>Custodial Service Contract with PSS</td>
<td></td>
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<td></td>
<td></td>
<td>$10,870</td>
<td></td>
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<tr>
<td>Exp</td>
<td>Information Technology</td>
<td></td>
<td>IT Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$60,000</td>
<td></td>
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<tr>
<td>Exp</td>
<td>Information Technology</td>
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<td>IT Services</td>
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<td>$16,200</td>
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<td>Exp</td>
<td>Information Technology</td>
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<td>IT Services</td>
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<td></td>
<td></td>
<td>$33,500</td>
<td></td>
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<tr>
<td>Exp</td>
<td>Information Technology</td>
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<td>IT Services</td>
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<td></td>
<td>$28,475</td>
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<tr>
<td>Exp</td>
<td>Information Technology</td>
<td></td>
<td>IT Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$10,000</td>
<td></td>
</tr>
<tr>
<td>Exp</td>
<td>Information Technology</td>
<td></td>
<td>IT Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$45,000</td>
<td></td>
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<tr>
<td>Exp</td>
<td>Information Technology</td>
<td></td>
<td>IT Services</td>
<td></td>
<td></td>
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<td></td>
<td>$32,500</td>
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</tr>
</tbody>
</table>
## FINANCE COMMITTEE ACCEPTED FY 2009-10 ADDITIONAL GF REDUCTIONS

### ATTACHMENT 1

<table>
<thead>
<tr>
<th>Category (Raw/Exp)</th>
<th>Dept</th>
<th>Class Title or Vendor Name</th>
<th>If position is filled, place an X in this column</th>
<th>Full-time Employees</th>
<th>Part-time Employees</th>
<th>Proposed Budget Adjustment (kinship in detail service being reduced/eliminated)</th>
<th>Increase</th>
<th>Decrease</th>
<th>Program Impact</th>
<th>Frequency (One Time vs. Ongoing)</th>
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### Notes:
- **Funding for Calhau Officer assigned to SDEA**: $106,043
- **Total Reimbursement for Sergeant Assigned to SDEA**: $86,214
- **Total Reimbursement for Crime Analyst Assigned to SDEA**: $35,415
- **New OTS grant that will fund CSGO 100% from 10/1/09 to 3/31/10**: $48,990
- **Eliminate 2 Police Officers positions**: $300,000
- **Eliminate one Sergeant position**: $121,528
- **Eliminate 2 Police Clerks**: $273,062
- **Eliminate one Lieutenant position**: $147,511
- **Eliminate one CSGO position**: $51,317
- **Salary reduction for Police Community Service Officer**: $30,000
- **Fee for Alcohol Permits**: $38 per year for each one at $31 and $70 for all season at $25.
- **Reduction in General Fund subsidy to Centre Plaza, Centre Plaza will replace with funds from the Fund 8700 reserve**: $150,000
- **Election of Binding Assistant 1950 to employees**: $18,875
- **Use of Grant funding to fund the Veteran’s Services Office**: $44,856
- **Compliance with Board of Education, personnel salary cuts**: $10,000
- **Salary cuts for non-professional staff**: $20,000
- **One-time**: Accepted
- **Ongoing**: Accepted
- **Mayor Acceptance/Not Accepted**: Accepted
- **Finance Committee Acceptance/Not Accepted**: Accepted

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*The above table shows the proposed budget adjustments and their impact on the 2009-10 fiscal year. Each entry details the category, department, class title/vendor name, position status, number of employees affected, proposed budget adjustment, and the impact on the program.*
MODesto City Council / Modesto redevelopment Agency
Resolution No. 15-2009

A joint resolution of the city council and redevelopment
Agency of the city of Modesto authorizing the City
Attorney/redevelopment Agency General Counsel to
Cooperate with the League of California Cities, the
California redevelopment Association, other cities and
Counties in litigation challenging the constitutionality
Of any seizure by state government of the city’s street
Maintenance and redevelopment funds

WHEREAS, the current economic crisis has placed the City of Modesto and other
cities under incredible financial pressure and caused them to make painful budget cuts,
including layoffs and furloughs of City workers, decreasing maintenance and operations
of public facilities, and reductions in direct services to keep spending in line with
declining revenues, and

WHEREAS, since the early 1990s the State Government of California has seized
over $10 billion of City property tax revenues statewide, now amounting to over $900
million each year, to fund the State Budget even after deducting public safety program
payments to cities by the state, and

WHEREAS, on April 30, 2009, in the case of CRA v. Genest, the Sacramento
Superior Court found similar efforts by the State to seize redevelopment tax increment
for the state general fund to be in direct violation of Article XVI, Section 16 of the State
Constitution, added by the voters in 1952 as Proposition 18, which requires that tax
increment be used exclusively for the benefit of redevelopment project areas; and

WHEREAS, since the early 1990s the state government also has seized $1.04
billion of redevelopment tax increment statewide, and the Governor and Legislature are
now considering seizing $350 million each year for three years, beginning in the current fiscal year; and

WHEREAS, in the State of California's proposed FY 2009-10 Budget, the Governor has proposed transferring $1 billion of local gas taxes and weight fees to the State General Fund to balance the State Budget, and over $700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain its Surface Transportation Program, which consists of street maintenance operations, traffic operations and electrical operations, traffic engineering, forestry cycle pruning, curb, gutter, and sidewalk repair, Capital Improvement Program projects for streets, and related traffic safety facilities for the use of the motoring public, and

WHEREAS, the loss of almost all of the City’s gas tax funds will seriously compromise the City's ability to perform critical traffic safety-related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, street trees and cycle pruning, sidewalk and curb ramp maintenance and repair, and more, and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, there is a serious concern about significant impacts, including increased traffic accidents and injuries and the potential for additional liability that could result due to deferred maintenance of streets should these funds be lost, and
WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state’s ability to do what the Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the State Constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%, and

WHEREAS, ongoing street maintenance is a significant public safety concern. Lack of proper maintenance of street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights can have a direct correlation to traffic accidents, injuries, and deaths, and

WHEREAS, according to a recent statewide needs assessment on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or “at risk.” Local streets and roads will fall to “poor” condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL AND THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO hereby directs the City Attorney/Redevelopment Agency General Counsel to take all necessary steps to cooperate with the League of California Cities, California Redevelopment Association, other cities, counties and redevelopment agencies in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the redevelopment tax increment and the City’s share of

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1 *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.
funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the state general fund; and

BE IT RESOLVED FURTHER, that the city manager/agency executive director or clerk shall send this resolution with an accompanying letter from the mayor/agency chair to the Governor and each of the city's state legislators, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 18 (1952), Proposition 5 (1974) and Proposition 2 (1998) concerning the proper use and allocation of the redevelopment tax increment and the gas tax; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be sent by the City Clerk to the League of California Cities, the California Redevelopment Association, the Modesto Chamber of Commerce, and other community groups whose members are affected by this proposal to divert funds from vital local services and projects.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto and the Redevelopment Agency held on the 23\textsuperscript{rd} day of June, 2009, by Councilmember/Agency member Hawn, who moved its adoption, which motion being duly seconded by Councilmember/Agency member Lopez, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers/Agency members: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

**NOES:** Councilmembers/Agency members: None

**ABSENT:** Councilmembers/Agency members: None

**ATTEST:**

\[\text{SEAL}\]

APPROVED AS TO FORM:

By:

\[\text{SEAL}\]

SUSANA ALCALA WOOD

City Attorney/Agency General Counsel
BE IT FURTHER RESOLVED that no General Fund loan is needed for Fiscal Year 2009-2010.

BE IT FURTHER RESOLVED that for the purpose of assisting with business park development, funds shall be transferred into the existing Capital Improvement Project Account – Kansas Woodland Business Park Land Q243 for the budgeted amount of $170,000 from Account No. 9020-120-DS92.

BE IT FURTHER RESOLVED that for the purpose of assisting with an affordable housing project(s), funds shall be transferred into the existing Capital Improvement Project Account – Affordable Housing Projects Q244 for the budgeted amount of $961,169 from Account No. 9060-140-1491.

BE IT FURTHER RESOLVED that the Treasurer is hereby authorized to take the necessary steps to implement the provisions of this resolution.

BE IT FURTHER RESOLVED that the budgetary control and authority policy defined in Exhibit “B”, which is attached hereto and made a part hereof by this reference, is hereby adopted for the Fiscal Year 2009-2010.
The foregoing resolution was introduced at a special meeting of the Redevelopment Agency of the City of Modesto, held on the 23rd day of June, 2009, by Agency Member Lopez, who moved its adoption, which motion being duly seconded by Agency Member Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES: Agency Members: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Agency Members: None

ABSENT: Agency Members: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, General Counsel

ATTEST: STEPHANIE LOPEZ, Agency Secretary

(SEAL)
REDEVELOPMENT AGENCY
RESOLUTION NO. 16-2009

A RESOLUTION ADOPTING THE ANNUAL REDEVELOPMENT AGENCY OPERATING AND CAPITAL IMPROVEMENT (CIP) BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2010

WHEREAS, pursuant to Health & Safety Code Section 33606, a proposed budget for the 2009-2010 Fiscal Year has been submitted to the Redevelopment Agency by the Executive Director, and the Redevelopment Agency has made such revisions as it has deemed advisable and is attached hereto as Exhibit “A” and made a part hereof by this reference, and

WHEREAS, the proposed budget was reviewed by the Finance Committee on June 22, 2009, and the Committee recommended the budget to the Agency for approval which approval includes, but is not limited to, the following specific recommendations more particularly described in the Budget Summary located on Page 11 of the budget document:

A. The Tax Increment revenues for FY 09-10 are budgeted in the amount of $5,868,000 and will be allocated between the following funds in the amount stated:
   a. Debt Service Fund 9020 (Debt Service) - $3,288,499
   b. Debt Service Fund 9020 (Pass-throughs) - $1,136,499
   c. Administration Fund 9050 - $154,795
   d. Housing Set-Aside Fund 9060 - $1,173,600
   e. RDA Projects Fund 9080 - $114,607

B. No General Fund loan is needed for Fiscal Year 2009-2010
C. Transfer funds into the existing Capital Improvement Project Account – Kansas Woodland Business Park Land Q243 for the purpose of assisting with business park development for the budgeted amount of $170,000 from Account No. 9020-120-DS92

D. Transfer funds into the existing Capital Improvement Project Account – Affordable Housing Projects Q244 for the purpose of assisting with an affordable housing project(s) for the budgeted amount of $961,169 from Account No. 9060-140-1491

WHEREAS, the Citizens Redevelopment Advisory Commission reviewed the proposed budget on May 28, 2008, and recommended its adoption, and

WHEREAS, in accordance with Health & Safety Code Section 33606, a public hearing was held on June 23, 2009 to review the proposed Agency budget and allow for public comment, and

WHEREAS, copies of the proposed budget have been and are available for inspection by the public at the office of the Agency Secretary, and

WHEREAS, the Agency has reviewed the budgetary control and authority policy report prepared by staff,

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Modesto that the Operating and Capital Improvement Budget for the Fiscal Year ending June 30, 2010 is hereby adopted.

BE IT FURTHER RESOLVED that the Tax Increment Revenues for FY 09-10 budgeted in the amount of $5,868,000 shall be allocated between the Agency funds as set forth in said budget document and this resolution.
To: Chair and Members of the Modesto Redevelopment Agency

I am very pleased to present the Agency with the Modesto Redevelopment Agency budget for Fiscal Year 2009-2010. In accordance with State Health & Safety Code Section 33606 et seq., the Agency’s FY 09-10 budget includes the following:

1. The proposed expenditures of the Agency, including administrative expenses
2. The proposed indebtedness of the Agency
3. The anticipated revenues of the Agency
4. The proposed work program for Fiscal Year 2009-2010, including goals
5. A review of FY 2008-2009 achievements and a comparison of these achievements with the goals set by the Agency in FY 2007-2008

We have provided the Agency with a budget that accurately reflects Redevelopment Law and details the requirements for each fund within the Agency budget. The Agency budget document is organized into three major sections: (1) Agency History, Work Program, Accomplishments and Future Plans; (2) Proposed Agency budget for FY 2009-2010; and (3) Capital Improvement Project Programs. These sections define each of the Agency’s projects and detail the corresponding funds needed to complete these projects. The enclosed Executive Summary outlines the overall revenues, expenditures and projects.

A summary financial Proforma detailing the revenue and expenditures for Fiscal Year 2009-2010 is shown on Page 11. I would like to identify some key elements of this year’s Agency budget. First, because of the decline in property values throughout the Project Area, the tax increment is not expected to increase as it has every year since 1983. Rather, the estimated gross revenue of $5,868,000 represents a 10% decline from the initial projections for FY 2008-2009 and is consistent with the revenue received. The Agency’s revenues will not exceed operating costs in FY 2009-2010.

Secondly, because of the uncertainty of both the Agency’s revenue projections, the proposed Proforma does not include funding for three additional obligations as follows:

1. The Agency has an outstanding loan from the City of Modesto General Fund in the current principal amount of $20,476,000. The proposed FY 09-10 budget does not include a loan repayment, but it does include a repayment schedule proposed to begin in FY 14-15. (Page 12)
2. During FY 2008-2009, the State budget mandated an Educational Revenue Augmentation Fund ("ERAF") payment of $414,522. In addition, there was a revenue shortfall in the debt service fund. In order to pay the ERAF expense and to remedy the debt shortfall, the Agency approved a $930,000 loan from the Housing Fund (Fund 9060) to the Agency’s Debt Service Fund (DS92). The proposed FY 09-10 budget includes a loan repayment amount of $103,096 with a 5-year repayment schedule of $103,096 for each additional fiscal year. At this time, the Sacramento Superior Court ruled to invalidate and enjoin the operation of Health and Safety Code section 33875, stopping all ERAF payments to the State.

3. In March 2009, the Agency staff determined that there is an Excess Surplus of funds remaining within the Housing Fund, which is a violation of redevelopment law. This Excess Surplus is required to be spent within 3 years from the date the funds became legally surplus. In order to remedy this violation, $299,145 in additional funds must be spent from General Tax Increment Revenues (not Housing Fund Revenues). These additional funds must be spent prior to June 30, 2009 on an eligible affordable housing project. At the time of printing, staff is reviewing the calculation of the excess surplus to verify the penalty amount.

The difficult economic times will impact the Redevelopment Agency revenues as well as our ability to develop new projects. It is our goal to maintain as many programs and projects as possible during the next fiscal year.

Sincerely,

Greg Nyhoff
RDA Executive Director
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Executive Summary

The Modesto Redevelopment Agency was formed to eliminate the amount of physical and economic blight in Modesto’s downtown, as well as areas west of State Route 99 and along Scenic Drive. Since 1983, the Agency has accomplished many of the strategies set forth in the Implementation Plan, which is the framework used to guide the Agency’s activities.

The Agency budget for FY2009-10 is outlined below.

* REVENUES *

The estimated gross tax increment for FY 2009-10 is $5,868,000, which is equivalent to the gross tax increment received for FY2008-09. Due to a decrease in property value and a slowdown in construction within the Project Area, the estimated revenue will remain static from the previous fiscal year. In addition, the Agency will receive approximately $239,860 in miscellaneous revenue from property leases and interest from funds within the RDA reserves. In addition, we anticipate carry over reserves in three funds, $19,174 in fund 9050; $414,522 in fund 9060 and $93,181 in fund 9080. From the gross revenue of $5,868,000 (including reserves), we deduct the following non-discretionary, statutory payments:

1. $1,136,499 - Tax revenue pass-throughs to outside agencies
2. $1,173,600 - 20% revenue transfer to the Housing Set-aside fund
3. $ 105,624 - County administrative expenses

After these deductions, it is estimated that the Agency will net approximately $3,452,277.

* EXPENDITURES *

For annual debt service, approximately $2.93M is budgeted for FY 2009-10. For staff services, approximately $363,084 is budgeted and is shown in the form of service credits from the Agency to the City. The Agency does not employ staff. Instead, the Agency provides service credits to certain City staff for needed services including legal, financial and administrative.

In addition, approximately $206,380 is budgeted for administrative costs and contracts with outside service providers including McDonough, Holland and Allen for legal review and Keyser-Marston for financial review of prospective developments. Urban master planning is also funded from Account 9080 for changes to land uses within the Project Area.

The beginning budget funding within the Capital Improvement Project fund, before adding new revenues, totals approximately $7.38M. Additional revenue is anticipated in the amount of $1,131,169 to total $8.514M. The Agency will be using these funds to assist in developing a mixed-use project in the Downtown as well as for several other proposed Area projects. The Housing Set-aside fund is expected to receive approximately $1.355M in tax increment and interest on cash balances for FY 09-10. Several affordable housing projects are under consideration, including Archway Commons on N. 9th Street, Tower Park at 17th and G Sts and the Downey Avenue Senior Housing Project. The Agency will combine their housing funds with Community Development Block Grant Funds and HOME funds to maximize the financial leverage.

* FY 2009-10 WORK PROGRAM *

The Agency has identified the following projects and programs for FY 2009-2010. For detailed descriptions and objectives of the Capital Improvement Project (CIP) accounts, please refer to the Capital Improvement Project section in this budget document.

Total CIP: $8,513,656. See CIP Section for details.
Executive Summary
(cont.)

| Project 1: | Affordable Housing Projects | Start Date: | Pending | Est. Comp.: | Pending |
| Status: | Projects under review | | | | |
| Details: | Please refer to the description included in the Capital Improvement Program Section of this Budget |

| Project 2: | Kansas-Woodland Business Park | Start Date: | 2002 | Est. Construction Start: | Fall 2011 |
| Status: | Purchasing the property | | | | |
| Details: | Please refer to the description included in the Capital Improvement Program Section of this Budget |

| Status: | Negotiating Development Agreement | | | | |
| Details: | This Mixed-use Project is intended to meet several Agency objectives, including: (1) Add covered public parking; (2) Add retail space; (3) Add office space; and (4) Add market-rate residential. The proximity of this project to existing destinations is critical to its success. The Gallo Center for the Arts is directly across 10th Street and the main theater and restaurant district is within one block of this location. The Agency owns four (4) parcels of land at the southwest corner of 10th & H Streets, which is the Project Site. The Agency Board distributed a Request for Proposal (RFP) to solicit a public-private partnership for the development of a high-quality, Mixed-Use Project on this 31,500 square-foot Site. The Agency selected a developer ("Team Modesto") for this project and entered into an Agreement to Negotiate Exclusively with Team Modesto. The goal is to deliver the desired development and provide for the redevelopment of this critical corner property. Team Modesto has negotiated with the Agency to expand the project to include the east side of the block between 9th & 10th Streets and G & H Streets. It is the Agency's desire to partner with Team Modesto, negotiate an acceptable development agreement (including a detailed scope of development and respective responsibilities of both the Agency and the Developer), determine financing needs and details, and complete project clearance and development within a two-year period ending Summer 2010. The Agency may consider several funding options that may include streetscape construction and assistance with parking. |

<p>| Project 4: | Public Parking Garages in Downtown Area | Est. Start: | Pending | Est. Comp.: | Pending |
| Status: | Projects under review | | | | |
| Details: | Parking within the Downtown Area is in extremely short supply. This project is intended to meet the Agency objective of providing needed infrastructure to support the variety of uses within the Downtown Core, including proposed residential, commercial and entertainment. As part of the Gallo Center for the Arts, a new parking garage was constructed at 12th &amp; I Streets which included an adjacent office building. In conjunction with this project, the Agency provided funding for the private sector portion of the office building, specifically for annual funding for public parking spaces. The Agency staff is working with private sector developers to identify additional sites for public parking garages. There is a severe parking shortage in the downtown and the Agency will continue to utilize partnerships to develop additional spaces to meet the growing demand. |</p>
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<th>Implement amendments to the City of Modesto Zoning Code to encourage mixed-use development in the Downtown Core</th>
<th>Est. Start: Jan 2009</th>
<th>Est. Comp.: Dec 2009</th>
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<td>Completion of the Mixed Use Zone is anticipated for Dec. 2009</td>
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<td>Details:</td>
<td>The RDA intends to encourage mixed-use development by working with the City of Modesto to create and adopt a Downtown Core Mixed-Use zone as part of a specific area plan for the Downtown Core. A mixed use zone can allow the City to adopt more comprehensive and detailed development standards that could help to foster a human-scaled, pedestrian-oriented environment. The mixed use zone should include design guidelines that should address, at minimum, specifications for setbacks, building massing, signage, street furniture, lighting, and landscaping. Application of new development standards should dictate that the Downtown Core will include the highest residential densities and the greatest intensity of land uses in the city.</td>
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<th>Project 6:</th>
<th>Conduct a Land Use &amp; Business Survey on Carpenter Road, including Modesto Junior college West</th>
<th>Est. Start: May 2009</th>
<th>Est. Comp.: Dec 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status:</td>
<td>Activity on this project is dependent upon available funding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Details:</td>
<td>The Agency intends to initiate several steps to foster the development of the Carpenter Road Corridor as a cohesive commercial corridor with mutually supporting uses. The preponderance of home improvement businesses on North Carpenter Road suggests that this market niche could be expanded. The Agency will conduct a land use survey of North Carpenter Road to determine what types of businesses are present. In addition, business owners will be surveyed to determine what type of new development they believe would complement and support existing development. These surveys will help to determine whether there is an adequate cluster of businesses that warrants further recruitment in a particular niche, such as home improvement. If so, the Agency could actively target new development that expands this niche.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Status:</td>
<td>Activity on this project is dependent upon available funding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Details:</td>
<td>Produce a Design Plan for implementation of streetscape improvements on 10th Street, from J Street to the Tuolumne River. The ultimate goal is to have a Plan in place that can be used as a partnership document between the Agency and private sector developers. A companion goal is to use the Plan to receive and target future funding. The streetscape will promote shade, walkability, and public gathering places. Streetscape improvements will be designed to fit the context of the block as well as the street. The Plan will also consider the installation of traffic calming measures on 1 Street, particularly at the intersections of 10th and 1 Streets, to promote pedestrian access and safety.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(This page intentionally left blank)
The purpose of forming a Redevelopment Agency is to eliminate physical and economic blight in a specific area of a community. The State of California enacted the Redevelopment Law for the specific purpose of assisting cities and counties in breathing new life into those targeted areas of cities that had fallen into economic and physical ruin. The heart of Modesto, our downtown, was one of those targeted areas. Modestans remember what the downtown was like before 1999. Back then, many were hesitant to walk alone in certain areas of the downtown because of the vacant buildings and seedy areas that seemed to be everywhere.

The only way to bring a blighted area to life is to attract private investment dollars to rebuild and redevelop the blighted properties. But, as one can imagine, investors are not anxious to put money into a dilapidated area with high risk and a very low rate of return. Understanding this, a Redevelopment Agency is formed for the specific purpose of providing a small amount of public funding to encourage investors to make a commitment within a blighted area. The Redevelopment Agency is given the role of using minimal public funds to leverage a much larger amount of private investment dollars to transform the blighted area from high risk to high activity — which is what we have done with the new Tenth Street Place and other projects within the Redevelopment Project Area.

There are two key points to understand about a Redevelopment Agency. **First, the Agency is a distinct political body that is totally separate from the City.** In some cities, such as San Jose, the redevelopment agency is a separate board with separate offices and staff. In Modesto, as in many other California cities, the City Council agreed to become the Agency board. This provides a cost savings to the Agency since the same offices and staff are used for both the City and the Agency. But, while it is a cost savings, it can be confusing. It is important to remember that the Agency and the City are separate agencies with separate laws, separate budgets and separate funding sources.

The second key factor is the source of funding for the Redevelopment Agency. The funds for redevelopment come from the property taxes of only those properties within the Redevelopment Project Area. The Redevelopment Project Area was established by law when the Redevelopment Agency was formed and it includes the downtown and areas along Carpenter Road, Paradise Road and Scenic Drive. The Agency receives a specified percentage of the property taxes as properties are improved and then incurs debt by reinvesting this money back into the Project Area to improve even more properties. Again, the goal is to leverage a small amount of public funds with private investment dollars to redevelop the Project Area before the Agency is terminated. The Agency can operate for 40 years and then there is an additional 10 years to pay off all debt. For Modesto, the Agency will terminate in November 2031 and all debt will be paid by November 2041.

State law allows a redevelopment agency to invest in very specific uses. For example, a redevelopment agency cannot build a new city hall nor can they use the funds for operation or maintenance of any private or government-owned facility. The Redevelopment Agency can invest in many types of private projects including office buildings, parking garages and retail centers within the Project Area. For example, Modesto’s Agency has partnered with the private sector to construct Tenth Street Place and two new office buildings on Tenth Street and 12th Street. Also, the Agency has joined with the private sector and Stanislaus County to construct the Gallo Center for the Arts. This Center will not only provide a benefit to the downtown but it will also increase the assessed value of the properties in the Project Area that, in turn, will increase the assessed property value. When the assessed value goes up, the taxes go up which means there is more money for the Agency to repay the debt they
Why Have Redevelopment?

(cont.)

have incurred and contribute towards future projects. This is a perfect example of the redevelopment funding cycle and the role of redevelopment in a community.

Redevelopment has been an important and successful tool in renovating many cities. In Modesto, we think that it has been the main reason for attracting new investors into the downtown and for creating alliances between the City and the County to provide better services for our citizens in a central location. Also, we have added entertainment destinations in the downtown along with restaurants and new retail stores. All in all, redevelopment is performing its job well here in Modesto. Beyond the projects now under construction, housing is another objective for the Redevelopment Agency and we expect to see new housing projects starting within the next year.
The Redevelopment Agency's goal is to eliminate blighting influences and stimulate new private and public investment in the Redevelopment Area. The Agency can help to stimulate investment through land assembly, construction of upgraded public improvements, incentive programs for building renovation, participation in catalyst projects aimed at spurring other complementary private investments, and expenditure of its low and moderate income housing funds for development of affordable housing.

To create a framework to guide the Agency's activities, the Agency has adopted a Vision and an Implementation Plan.

**Goals**

This Plan was approved in December 2005 for the period of 2005-2009.

1. Create a unique and recognizable image for Modesto and use it to strenuously promote the City.
2. Promote the economic viability of the Redevelopment Area by attracting new development.
3. Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers.
4. Provide the rationale and impetus for the City to update its development standards to support the goals identified in this document.
5. Develop a variety of housing types in the Redevelopment Area, including affordable housing, particularly in the downtown, to act as a catalyst for other types of development.
6. Enhance the visual appeal of Modesto's public spaces by upgrading existing parks, plazas, and streets, and by creating new parks and plazas that offer public access.
7. Develop historic I and 10th Streets as an attractive, pedestrian-oriented zone. Create a clear sense of arrival at Modesto's downtown by enhancing the 6th and I Street Gateway and the intersection of I and 10th Streets.
8. Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area.

**The Vision**

- Modesto's parks, plazas, and greenways contribute to a public realm that provides an attractive, inviting "Oasis in the Valley."
- Modesto's unique history and character are preserved to make the city a pleasant place to live, and are actively promoted to attract new investment.
- The downtown is a vibrant mixed-use area with an established residential element.
- Transportation opportunities are multi-modal and well-connected throughout the Redevelopment Area, city, and region.
Agency Achievements

Completed Projects

- Modesto Centre Plaza
- DoubleTree Hotel
- 9th Street Garage
- Gallo Center for the Arts
- City Towers Offices
- Renaissance Office & Garage
- Affordable Housing
  - Gateway
  - Ashwood Village
  - Woodstone
  - Dan West Court
  - Town Center

- Master Plan and EIR
- Facade Grants
- Wayfinding Signage
- Tenth Street Place
  - Parking Garage
  - Brenden Theatres
  - First Floor Retail
- Shopping Center on Paradise Road

FY 2007 - 2008 Project Goals

- Amend Zoning Code to create Downtown Mixed-Use Zoning Plan:
  - Completion Date: 12/09
- Kansas-Woodland Business Park - Approval of Parcel Acquisition:
  - Completion Date: 12/08
- 10th & H Street Mixed-Use Project: CEQA Review and Planned Development Zone Application
  - Completion Date: 06/09
- Affordable Housing Projects:
  1. Archway Commons - Agency funding of parcel acquisition
     - Completion Date: 01/09
  2. Palm Valley Apartments - Agency funding of handicapped unit
     - Completion Date: 11/08
  3. Downey Avenue Senior Housing - Agency funding of land assembly and related items
     - Completion Date: 06/09
- Downtown Parking Garage: Create parking garage plan in conjunction with private projects
  - Completion Date: 06/09

FY 2008- 2009 Goals Achieved

- Amend Zoning Code to create Downtown Mixed-Use Zoning Plan:
  - Projected Completion Date: 12/09
- Kansas-Woodland Business Park - Approval of Parcel Acquisition:
  - Projected Completion Date: 09/09
- 10th & H Street Mixed-Use Project: CEQA Review and Planned Development Zone Application
  - Projected Completion Date: 06/09
- Affordable Housing Projects:
  1. Archway Commons - Agency funding of parcel acquisition
     - Completion Date: 06/09
  2. Town Center - Agency funding of affordable units
     - Completion Date: 10/08
  3. Palm Valley Apartments - Agency funding of handicapped unit
     - Completion Date: 05/09
  4. Downey Avenue Senior Housing - Agency funding of land assembly and related items
     - Completion Date: 06/09
- Downtown Parking Garage: Create parking garage plan in conjunction with private projects
  - Projected Completion Date: 06/10
## FY2009-10

<table>
<thead>
<tr>
<th>Estimated Beginning Working Capital (1)</th>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>Adjusted Reserves</td>
<td>$1,977,050</td>
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<td></td>
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<tr>
<td>Bond Reserve Fund (COPS) (2)</td>
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<table>
<thead>
<tr>
<th>Revenues</th>
<th>Projected Total Ti: $5,868,000</th>
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<tbody>
<tr>
<td>Ti - Revenue Received</td>
<td>$3,288,499</td>
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<tr>
<td>Ti for Pass-thru (3)</td>
<td>$1,136,499</td>
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<tr>
<td>Interest (4)</td>
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<tr>
<td>Miscellaneous - Mobile Home Assistance</td>
<td>$-</td>
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<tr>
<td>Loan Repayment from Fund 9020</td>
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<tr>
<td>Leases (5)</td>
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<table>
<thead>
<tr>
<th>Expenditures</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>9th Street Garage Lease (6)</td>
<td>$1,954,017</td>
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<tr>
<td>Debt - Tenth Street Place Bond - 2007 Re-fi (7)</td>
<td>$980,676</td>
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<tr>
<td>County Administrative Costs (8)</td>
<td>$79,650</td>
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<tr>
<td>Administration</td>
<td>$69,174</td>
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<tr>
<td>Professional and Admin Services</td>
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<tr>
<td>Staff/Service Credits (9)</td>
<td>$29,467</td>
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<tr>
<td>City Internal Cost Allocations</td>
<td>$170,000</td>
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<td>Total</td>
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<tr>
<td>Available Working Capital</td>
<td>$533,893</td>
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<td>Transfer to Reserves</td>
<td>$533,893</td>
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### MULTI-YEAR BUDGETS

<table>
<thead>
<tr>
<th>RDA CIP Budget</th>
<th>Beginning Budget</th>
<th>Transfers In</th>
<th>Transfers Out</th>
<th>Anticipated Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>KWBP Land - Q243 (Fund 9080)</td>
<td>$507,928</td>
<td>170,000</td>
<td></td>
<td>677,928</td>
</tr>
<tr>
<td>KWBP Plan - Q246 (Fund 9080)</td>
<td>$559</td>
<td></td>
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<td>559</td>
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<tr>
<td>Public Improvement - K732 (Fund 9080)</td>
<td>$525,000</td>
<td>961,169</td>
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<td>976,169</td>
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<td>Downtown Cameras - K002 (Fund 9080)</td>
<td>$259,000</td>
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<td>259,000</td>
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<tr>
<td>Housing - Q244 (Fund 9060)</td>
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<td></td>
<td>15,000</td>
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<tr>
<td>Archway Commons - K743 (Fund 9060)</td>
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<td>525,000</td>
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<tr>
<td>Palm Valley - K745 (Fund 9060)</td>
<td>$830,000</td>
<td></td>
<td></td>
<td>830,000</td>
</tr>
<tr>
<td>Downey Avenue - K746 (Fund 9060)</td>
<td>$520,000</td>
<td></td>
<td></td>
<td>520,000</td>
</tr>
</tbody>
</table>

| Developer Funded Projects               | Beginning Budget (Developer Funds) | Anticipated Exp | |
|-----------------------------------------|-------------------------------------|-----------------|
| 10th & H Mixed Use - 9080 - 1494        | $1,755                               | 1,755           |
| Archway Commons - 9060 - 1495           | $73,150                              | 73,150          |
| KWBP - TT Modesto - 9080 - 1496         | $1,000                               | 1,000           |

1. Distribution of ending working capital from FY 08-09
2. 1996 Certificates of Participation (COPS) - Trustee requires set aside of the Reserve Requirement
3. Estimated projections for annual Pass-through costs provided by Keyser-Marsion, Inc
4. Interest is estimated based on cash balances
5. Lease for First Floor Retail of Tenth Street Place Project
6. Includes $6,500 trustee fee; See Reimbursement Agreement for Agency to City reimbursement
7. Includes $3,101 a trustee fee
8. County Administration Costs projected at 1.8% of Gross Ti Revenues per fund
9. Operating duties are performed by City staff and paid per Service Credits
10. Agreement with developer of Renaissance Project for rebate of 1% increment of $86,784
Repayment Schedules for Agency Loans

* Repayment Schedule for Loans from Housing Fund 9060 *

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 - 2010</td>
<td>$103,096</td>
</tr>
<tr>
<td>2010 - 2011</td>
<td>$103,096</td>
</tr>
<tr>
<td>2011 - 2012</td>
<td>$103,096</td>
</tr>
<tr>
<td>2012 - 2013</td>
<td>$103,096</td>
</tr>
<tr>
<td>2013 - 2014</td>
<td>$103,096</td>
</tr>
<tr>
<td>Total Principal:</td>
<td>$515,478</td>
</tr>
</tbody>
</table>

* Repayment Schedule for City Loan to Redevelopment Agency *

**Recommended Criteria**

1. Minimum of $1M in Net Revenue required in a given FY before loan repayment is considered for that FY

2. If Net TI equals $1M in a given FY, then minimum annual repayment is $100K or set 10%, whichever is greater

3. The last 10 years of Net TI (2032 - 2042) will go entirely to loan repayment to ensure that loan is not repaid before 2042

**Projection:** First Year of Repayment is FY 14-15 (Estimate)**
1. The Redevelopment Agency of the City of Modesto is commonly referred to as the "RDA" or the "Agency". You will see these references used in many reports and budget documents related to the Redevelopment Agency.

2. The primary source of revenue to the Agency comes from Tax Increment funding. This is funding that is generated from new development within the RDA Project Area. As each parcel is developed, the property taxes increase. A designated portion of these increased taxes flows to the Agency to promote more new development within the Project Area.

3. Another source of revenue to the Agency is property lease revenue. Currently, the Agency is receiving monthly lease payments from the retail shops located on the First Floor of the City-County Government Building located at 1010 Tenth Street within the Tenth Street Place project.

4. A smaller source of revenue to the Agency is the interest earned on each account through investments made by the Agency's Treasurer.

5. The Agency does not hire staff independently. As is common in California, the Agency pays City staff to provide the day-to-day work for the Agency. This City staff work is paid for through the use of service credits between the Agency and the City, reimbursing the City for each hour spent providing Agency work. In addition, the Agency contracts with private professional firms who provide a variety of services, from legal review to property appraisal.

6. The Bond Reserve Fund of $1,977,050 is included in the RDA's budget as part of the legal requirements for the Modesto Centre Plaza Certificates of Participation ("COPs"). The COPs is the type of bonding mechanism that was used to fund the Modesto Centre Plaza. The Bond Trustee requires the RDA to maintain a specific account including one (1) year of payment for the on-going debt. This Reserve Fund will no longer be maintained once the debt is paid in full.

7. Stanislaus County charges the Agency for processing the property tax revenue each year. This Administration charge is estimated at 1.8% of the total revenue collected and is shown under County Administration Costs in the Agency's budget.

8. Stanislaus County collects property taxes on all parcels throughout the RDA Project Area. Generally, parcels owned by the Agency do not pay property taxes. However, when the Agency leases a parcel and/or building to a private company, then there is a required property tax collected called a "Possessory Interest Tax".

This is the case for the 9th Street Garage, between K Street and L Street. The Agency owns the garage and leases it to the City of Modesto for use in downtown parking. The City, in turn, sub-leases a large portion of the garage to the Doubletree Hotel for their private customers. The Doubletree Hotel is located just across 9th Street from the garage and the two structures are connected by way of a pedestrian bridge. The use of the garage by this private business creates a Possessory Interest Tax. As required by the Lease between the Agency and the City, the City pays any Possessory Interest Tax that is due as a result of this private use.
## Debt Service

### Revenue

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual 2008</th>
<th>Adopted 2009</th>
<th>Estimated 2009</th>
<th>Proposed 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Increment</td>
<td>$2,329,322</td>
<td>$2,994,710</td>
<td>$2,580,822</td>
<td>$3,288,499</td>
</tr>
<tr>
<td>Tax Increment/Pass-thru (Less ERAF)</td>
<td>$1,115,992</td>
<td>$1,259,000</td>
<td>$1,259,000</td>
<td>$1,136,499</td>
</tr>
<tr>
<td>Interest</td>
<td>$238,020</td>
<td>$200,000</td>
<td>$65,000</td>
<td>$40,000</td>
</tr>
<tr>
<td>Misc</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund Loan</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Transfer in from 9050 (Administration)</td>
<td>$191,962</td>
<td>$</td>
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<td></td>
</tr>
<tr>
<td>Transfer in from 9080 (Project Plan)</td>
<td>$728,471</td>
<td>$</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Source of Funds** $4,712,317

### Expenditures

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual 2008</th>
<th>Adopted 2009</th>
<th>Estimated 2009</th>
<th>Proposed 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt - Centre Plaza</td>
<td>$1,949,925</td>
<td>$1,954,318</td>
<td>$1,954,318</td>
<td>$1,954,017</td>
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<tr>
<td>Debt - TSP</td>
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<td>$974,140</td>
<td>$980,676</td>
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<td>County Admin Costs</td>
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<td>$76,567</td>
<td>$79,650</td>
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<td>City Internal Cost Allocations</td>
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<td>$18,868</td>
<td>$18,868</td>
<td>$29,467</td>
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<tr>
<td>Pass-thru</td>
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<td>$1,259,000</td>
<td>$1,259,000</td>
<td>$1,136,499</td>
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<td>TI Rebate - Renaissance Project</td>
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<td>ERAF Payment (AB 1389)</td>
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<td>Loan Repayment to Housing Fund</td>
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<td>Loan Repayment to GF</td>
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<tr>
<td>Transfer Out: KWBP Land - CIP # Q243</td>
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<td></td>
<td></td>
<td>$170,000</td>
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</table>

**Total Use of Funds** $5,342,933
**Explanation**

This fund maintains the accumulation of resources for and the payment of general long-term debt principal and interest. It also receives tax increment designated for the pass-throughs to various taxing agencies, including Stanislaus County, school districts and special districts.

<table>
<thead>
<tr>
<th>Subordinated Tax Sharing Allocations (Original and Amended Area) (in 1,000's)</th>
<th>06-07</th>
<th>07-08</th>
<th>08-09</th>
<th>09-10</th>
<th>10-11</th>
<th>11-12</th>
<th>12-13</th>
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<tbody>
<tr>
<td>Stanislaus County (1)</td>
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<td>488</td>
<td>434</td>
<td>588</td>
<td>688</td>
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<tr>
<td>County Office of Education (2)</td>
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<td>71</td>
<td>83</td>
<td>65</td>
<td>101</td>
<td>118</td>
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<td>Yosemite Community College (2)</td>
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<td>96</td>
<td>75</td>
<td>116</td>
<td>136</td>
<td>168</td>
<td>173</td>
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<td>Modesto City &amp; HS District (2)</td>
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<td>574</td>
<td>400</td>
<td>692</td>
<td>809</td>
<td>999</td>
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<td>City of Modesto (3)</td>
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<td>Woodland Avenue Fire Protection District (3)</td>
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<td>$2,375</td>
<td>$2,445</td>
</tr>
</tbody>
</table>

(1) County tax sharing agreement provides that the Agency receives 100% of the County’s share of tax increment in years 1 to 15 (FY 1992-93 thru 2006-07). The County will receive 30% of its share in years 16 to 20 (FY 2007-08 thru 2011-12). The allocation increases to 45% in year 21 (FY 2012-13), 60% in year 26, 70% in year 31 and 90% in year 36.

(2) School District allocation formulas are based upon 25% of the Districts’ respective share of net tax increment commencing in year 6 (FY 1997-98) to year 20 (FY 2011-12). This projection assumes that the allocation formula provided in Section 5 of the respective agreements remains in effect. The allocation increases to 30% in year 21 (FY 2012-13), 40% in year 31 and 50% in year 36.

(3) Additional taxing agencies added pursuant to §8211 adoption.
### Administration

9050-1490

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Actual 2008</th>
<th>Adopted 2009</th>
<th>Estimated 2009</th>
<th>Proposed 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Beginning Working Capital</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Tax Increment</td>
<td>$ 231,033</td>
<td>$ 358,019</td>
<td>$ 327,000</td>
<td>$ 154,795</td>
</tr>
<tr>
<td>Interest</td>
<td>$ 735</td>
<td>$ 2,000</td>
<td>$ 2,000</td>
<td>$ 2,000</td>
</tr>
<tr>
<td><strong>Total Source of Funds</strong></td>
<td><strong>$ 231,768</strong></td>
<td><strong>$ 360,019</strong></td>
<td><strong>$ 329,000</strong></td>
<td><strong>$ 175,969</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>County Admin Charges</td>
<td>$ 2,221</td>
<td>$ 6,444</td>
<td>$ 6,444</td>
<td>$ 2,786</td>
</tr>
<tr>
<td>Administration</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Professional Services</td>
<td>$ 92,368</td>
<td>$ 137,849</td>
<td>$ 137,849</td>
<td>$ 69,174</td>
</tr>
<tr>
<td>Staff Charges</td>
<td>$ 139,435</td>
<td>$ 164,703</td>
<td>$ 173,232</td>
<td>$ 104,009</td>
</tr>
<tr>
<td>Internal Service Fund Charges</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>City Internal Cost Allocations</td>
<td>$ 51,023</td>
<td>$ 51,023</td>
<td>$ 51,023</td>
<td>$</td>
</tr>
<tr>
<td>Pass-thrus</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Taxes</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Transfer Out to 9020 (Debt Service)</td>
<td>$ 191,962</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>Total Use of Funds</strong></td>
<td><strong>$ 477,009</strong></td>
<td><strong>$ 360,019</strong></td>
<td><strong>$ 368,548</strong></td>
<td><strong>$ 156,795</strong></td>
</tr>
</tbody>
</table>

### Explanation

This fund contains expenditures for services provided to the Redevelopment Agency by City staff in Community & Economic Development, Finance and the City Attorney’s office.
### Explanation

This is a special revenue fund created pursuant to the Health & Safety Code Section 33334.3. All transactions related to Housing Set-Aside projects must be accounted for in this separate fund.

#### Fiscal Years 2009-2010

**Low and Moderate Income Housing Fund**

**Expenditures for Planning and Administrative Activities**

The Agency is required to adopt annual determinations that consider the necessity and proportionality of Low and Moderate Income Housing Fund (LMIHF) expenditures for planning and administrative activities.

Expenditures from the LMIHF for planning and administrative costs, relative to the total budget for Fiscal Years 2009-2010 and expenses are noted below:
Housing Set-aside

Percent of Planning and Administrative Expenditures of LMIHF Budget

Expenditures from the LMIHF for planning and administrative costs (Admin), and their relationship to the total budget are noted below:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>LMIHF Budget</th>
<th>Admin Expenditures</th>
<th>Admin % of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 05/06</td>
<td>$ 802,000</td>
<td>$ 6,821</td>
<td>0.88%</td>
</tr>
<tr>
<td>FY 06/07</td>
<td>$ 1,075,000</td>
<td>$ 98,208</td>
<td>9.13%</td>
</tr>
<tr>
<td>FY 07/08</td>
<td>$ 1,215,000</td>
<td>$ 111,910</td>
<td>9.21%</td>
</tr>
<tr>
<td>FY 08/09</td>
<td>$ 1,300,000</td>
<td>$ 116,203</td>
<td>8.94%</td>
</tr>
<tr>
<td>FY 09/10 Est.</td>
<td>$ 1,769,218</td>
<td>$ 112,385</td>
<td>6.35%</td>
</tr>
</tbody>
</table>

Percent of Planning and Administrative Expenditures of LMIHF Expenditures

Expenditures from the LMIHF for planning and administrative costs (Admin), and their relationship to actual LMIHF expenditures are noted below:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>LMIHF Expended</th>
<th>Admin Expenditures</th>
<th>Admin % of LMIHF</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 05/06</td>
<td>$ 6,821*</td>
<td>$ 6,821</td>
<td>100%</td>
</tr>
<tr>
<td>FY 06/07</td>
<td>$ 770,000**</td>
<td>$ 98,208</td>
<td>12.75%</td>
</tr>
<tr>
<td>FY 07/08</td>
<td>$ 5,567,772**</td>
<td>$ 111,910</td>
<td>2.00%</td>
</tr>
<tr>
<td>FY 08/09</td>
<td>$ 7,751,546***</td>
<td>$ 116,203</td>
<td>1.49%</td>
</tr>
<tr>
<td>FY 09/10 Est.</td>
<td>$ 7,756,169***</td>
<td>$ 112,385</td>
<td>1.48%</td>
</tr>
</tbody>
</table>

* The Administrative and Planning expenditures for FY 2005-2006 were for legal review, only, of proposed affordable housing developments and compliance issues.

** Beginning with FY 2006-2007 and continuing through FY 2009-2010, the Agency has worked with the City of Modesto to evaluate several sites for possible affordable housing projects. The Agency has identified the following projects and continues to work with the owner/developers to increase the affordable housing units in Modesto:

1. Town Center (Roselle/Belharbour) - 20 rental units; 7 single-family units
2. Archway Commons (N. 9th St) - 150 rental units
3. Palm Valley Apartments (201 E. Coolidge) - 40 units, including rehabilitation of unit to handicapped standards and other security upgrades
4. Downey Avenue Senior Housing (412-416 Downey) - 12 units
5. Tower Park (17th & G) - Potential mixed-use project including affordable housing component

*** The revenue for FY 2009-2010 Housing Fund is $1,769,218. There is also a Capital Improvement Program ("CIP") account with a total of $7,576,169, which includes the current budget revenue. All existing funds within the Housing budget and the CIP Account will be utilized for the above affordable housing projects within FY 2009-2010. Agency funding will be expended in conjunction with funding from the Community Development Block Grants, HOME and other housing funding.

Legislative Regulations and Associated Guidelines:

Criteria: Health and Safety Code Section 33334.3(d) expresses the Legislature’s intent that LMIHF expenditures for general planning and administrative activities not be disproportionate to actual costs for housing production, improvement, and preservation; and requires agencies to determine annually that planning and administrative expenses are necessary for the projection, improvement, or preservation of low- and moderate-income housing.

State Controller’s Office, Guidelines for Compliance Audits of California Redevelopment Agencies, November 1998, requires independent auditors to test for a written annual determination concerning the necessity and appropriateness of any planning and administrative expenditures from the LMIHF.

Health and Safety Code Section 33334.3(e) provides that the planning and administrative costs that may be paid by the LMIHF are those expenses incurred by the Agency which are directly related to the programs and activities authorized by Section 33334.2(e) and are limited to: (A) costs incurred for salaries, wages, and related costs of the Agency’s staff or for services provided through interagency agreements and agreements with contractors; and (B) costs incurred by a nonprofit organization not directly attributable to a specific project.
### Revenue

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Beginning</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Working Capital</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Tax Increment</td>
<td>$ 974,710</td>
<td>$ 588,271</td>
<td>$ 531,000</td>
<td>$ 114,607</td>
</tr>
<tr>
<td>Interest</td>
<td>$ 81,423</td>
<td>$ 75,000</td>
<td>$ 33,720</td>
<td>$ 10,000</td>
</tr>
<tr>
<td><strong>Total Source of Funds</strong></td>
<td>$ 1,056,133</td>
<td>$ 663,271</td>
<td>$ 564,720</td>
<td>$ 217,788</td>
</tr>
</tbody>
</table>

### Expenditures

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>County Admin Costs</td>
<td>$ 12,609</td>
<td>$ 10,589</td>
<td>$ 10,589</td>
<td>$ 2,063</td>
</tr>
<tr>
<td>Professional Services</td>
<td>$ 10,875</td>
<td>$ 100,000</td>
<td>$ 76,690</td>
<td>$ 103,704</td>
</tr>
<tr>
<td>Staff/Service Credits</td>
<td>$ 131,886</td>
<td>$ 146,853</td>
<td>$ 142,414</td>
<td>$ 112,021</td>
</tr>
<tr>
<td>Internal Service Funds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Internal Cost Allocations</td>
<td>$ 4,722</td>
<td>$ 4,722</td>
<td>$ 4,722</td>
<td>$</td>
</tr>
<tr>
<td>Project Area Revitalization</td>
<td></td>
<td>$ 200,000</td>
<td>$ 2,482</td>
<td>$</td>
</tr>
<tr>
<td>RDA Master Plan/EIR (K871)</td>
<td>$ 94,601</td>
<td>$</td>
<td>$</td>
<td>$</td>
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<tr>
<td>KWBP Plan (Q246)</td>
<td>$ 41,831</td>
<td>$</td>
<td>$</td>
<td>$</td>
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<tr>
<td>Gallo Center (Q260)</td>
<td>$ 59,932</td>
<td>$</td>
<td>$</td>
<td>$</td>
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<tr>
<td>KWBP Land (Q243)</td>
<td>$</td>
<td>$ 150,000</td>
<td>$ 135,000</td>
<td>$</td>
</tr>
<tr>
<td>Public Improvement (K732)</td>
<td>$ 333,018</td>
<td>$ 51,107</td>
<td>$ 1,500</td>
<td>$</td>
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<tr>
<td>Transfer Out to 9020 (Debt Service)</td>
<td>$ 728,471</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>Total Use of Funds</strong></td>
<td>$</td>
<td>$ 663,271</td>
<td>$ 373,397</td>
<td>$ 217,788</td>
</tr>
</tbody>
</table>

### Explanation

This fund pays for various services associated with the Agency’s project planning and project implementation. Services provided include funding for market studies, feasibility studies, funds for project partnerships pursuant to adopted development agreements and other Project Area Revitalization projects.
## Capital Improvement Program

<table>
<thead>
<tr>
<th>RDA CIP Budget</th>
<th>Beginning Budget</th>
<th>Transfers In</th>
<th>Transfers Out</th>
<th>Anticipated Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>KWBP Land CIP - Q243</td>
<td>$507,928</td>
<td>$170,000</td>
<td>$</td>
<td>$677,928</td>
</tr>
<tr>
<td>KWBP Plan CIP - Q246</td>
<td>$559</td>
<td>$</td>
<td>$</td>
<td>$559</td>
</tr>
<tr>
<td>Public Impr CIP - K732</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Downtown Cameras - K002</td>
<td>$259,000</td>
<td>$</td>
<td>$</td>
<td>$259,000</td>
</tr>
<tr>
<td>Housing - Q244</td>
<td>$15,000</td>
<td>$961,169</td>
<td>$</td>
<td>$976,169</td>
</tr>
<tr>
<td>Archway Commons - K743</td>
<td>$5,250,000</td>
<td>$</td>
<td>$</td>
<td>$5,250,000</td>
</tr>
<tr>
<td>Palm Valley - K745</td>
<td>$830,000</td>
<td>$</td>
<td>$</td>
<td>$830,000</td>
</tr>
<tr>
<td>Downey Avenue - K746</td>
<td>$520,000</td>
<td>$</td>
<td>$</td>
<td>$520,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Developer-Funded Projects</th>
<th>Beginning Budget (Developer Funds)</th>
<th>Anticipated Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>10th &amp; H Mixed Use - 9080 - 1494</td>
<td>$1,755</td>
<td>$1,755</td>
</tr>
<tr>
<td>Archway Commons - 9060 - 1495</td>
<td>$73,150</td>
<td>$73,150</td>
</tr>
<tr>
<td>KWBP - TT Modesto - 9080 - 1496</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
</tbody>
</table>
Kansas Woodland Business Park Property Option

Project Manager: Brent Sinclair
Budget: $677,928

* HISTORY *

The purpose of the Agency's Business Park Development Program, and specifically the Kansas Woodland Business Park, is to further economic development and redevelopment in the community. As an excellent redevelopment project, this Park has the potential to create an estimated 20-25 jobs/acre totaling more than 800 new jobs at build-out. This is a classic example of a redevelopment project where a "brownfield" site is cleaned and the future business conditions are improved for the site and the surrounding property owners. An essential part of this development process is the partnership with the adjacent landowners. They have been very supportive of the project and have provided valuable input in both the Park design and the options for land use strategies.

The Agencymembers have received more than 20 progress reports, in both Closed and Public Sessions, since 2002. The following is a brief summary of the milestone actions taken by the Agency to date:

**November 6, 2002:** Agency authorized:
1. Purchase Option Agreement for the FMC property, including various related agreements, with a three (3) year term to expire on November 6, 2005.
2. Request for Proposals process for a Master Developer
3. Approval of $405,000 loan from Stanislaus County ED Bank to hire consultants, etc. to be repaid upon sale of property.

**December 9, 2002:** Agency authorized:
1. Distribution of the approved Request for Proposal for Master Developer
2. Formation of a 10-member Selection Committee, including two Agencymembers, to consider RFP proposals and recommend a developer to the Agency

**February 11, 2003:** Agency authorized:
1. Draft Conceptual Site Plan Scenarios A & B for the proposed development
2. Draft Design and Use Guidelines to be included in the future Specific Plan for a Development Agreement.

**March 25, 2003:** Agency approved Terrence J. Rose, Inc. as the Master Developer and directed the Executive Director to begin negotiations for a Development Agreement.

**Sept. 13, 2005:** Agency received a Project Status Report Update and authorized a one-year extension to the Purchase Option Agreement with a new expiration date of Nov. 6, 2006.

**October 24, 2006:** Agency received a Project Status Report Update and authorized a second one-year extension to the Purchase Option Agreement with an expiration date of Nov. 6, 2007.

**January 2, 2008:** In Closed Session, Agency received a Status Report and provided direction to staff on negotiations for the potential purchase of the site.

**April 8, 2008:** In Closed Session, Agency received a report on final negotiations and the draft Purchase & Sales Agreement. Agency provided direction to staff.
January 27, 2009: Agency approved Purchase & Sale Agreement between the FMC Corporation and the Agency. In addition, the Agency approved a Memorandum of Understanding with TT Modesto, LLC (Developer) to produce environmental review and a final development agreement.

Next Steps:

Purchase and Sale Agreement: On January 27, 2009, the Agency approved the Purchase & Sale Agreement between the Agency and the FMC Corporation. This escrow process will move forward until all State mandated reports are completed by FMC Corporation. Once all reports are complete, the escrow will close and the Agency will own the three parcels in this transaction.

Disposition and Development Agreement: To date, the Agency has expended approximately $1,300,000 on pre-development costs. As the Master Developer, Terrence J. Rose, Inc. has expended funds over a period of 5 years to perform pre-development activities. Included in this work, Terrence Rose has completed review of all remediation documents, the Draft Specific Plan, the Tentative Subdivision Map and all other aspects of the project.

In a separate future action, the Agency will consider the approval of the Disposition and Development Agreement between the Agency and Terrence Rose, Inc. for the business park development. As part of that Agreement, the Agency will sell the parcels for a negotiated price. Incorporated into these future cost negotiations will be the potential for repayment of the Agency’s costs to date, including the Stanislaus County Economic Development Bank Loan in the amount of $405,000 and other pre-development costs. Further budget amendments and appropriations will be addressed at the time the Agency considers the Development Agreement for approval.
Kansas Woodland Business Park Concept Master Plan

Project Manager: Brent Sinclair
Budget: $559

* HISTORY *

The purpose of the Agency’s Business Park Development Program, and specifically the Kansas Woodland Business Park, is to further economic development and redevelopment in the community. As an excellent redevelopment project, this Park has the potential to create an estimated 20-25 jobs/acre totaling more than 800 new jobs at build-out. This is a classic example of a redevelopment project where a “brownfield” site is cleaned and the future business conditions are improved for the site and the surrounding property owners. An essential part of this development process is the partnership with the adjacent landowners. They have been very supportive of the project and have provided valuable input in both the Park design and the options for land use strategies.

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3. Approval of $405,000 loan from Stanislaus County ED Bank to hire consultants, etc. to be repaid upon sale of property.

**December 9, 2002:** Agency authorized:
1. Distribution of the approved Request for Proposal for Master Developer
2. Formation of a 10-member Selection Committee, including two Agency members, to consider RFP proposals and recommend a developer to the Agency

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1. Draft Conceptual Site Plan Scenarios A & B for the proposed development
2. Draft Design and Use Guidelines to be included in the future Specific Plan for a Development Agreement.

**March 25, 2003:** Agency approved Terrence J. Rose, Inc. as the Master Developer and directed the Executive Director to begin negotiations for a Development Agreement.

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**April 8, 2008:** In Closed Session, Agency received a report on final negotiations and the draft Purchase & Sales Agreement. Agency provided direction to staff.
Kansas Woodland Business Park Concept Master Plan, Continued

- HISTORY CONTINUED -

January 27, 2009: Agency approved Purchase & Sale Agreement between the FMC Corporation and the Agency. In addition, the Agency approved a Memorandum of Understanding with TT Modesto, LLC (Developer) to produce environmental review and a final development agreement.

- NEXT STEPS -

Purchase and Sale Agreement: On January 27, 2009, the Agency approved the Purchase & Sale Agreement between the Agency and the FMC Corporation. This escrow process will move forward until all State mandated reports are completed by FMC Corporation. Once all reports are complete, the escrow will close and the Agency will own the three parcels in this transaction.

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In a separate future action, the Agency will consider the approval of the Disposition and Development Agreement between the Agency and Terrence Rose, Inc. for the business park development. As part of that Agreement, the Agency will sell the parcels for a negotiated price. Incorporated into these future cost negotiations will be the potential for repayment of the Agency's costs to date, including the Stanislaus County Economic Development Bank Loan in the amount of $405,000 and other pre-development costs. Further budget amendments and appropriations will be addressed at the time the Agency considers the Development Agreement for approval.
**Project Area Public Improvements**

**Project Manager:** Brent Sinclair  
**Budget:** No funding available

Construct various public improvements within the RDA Project Area to support public-private development partnerships. Improvements may include, but are not limited to, various types of construction such as: street construction, streetscape, signage, public garages, land acquisition/disposition.

**History**

Over the past several years, the Agency has focused on assisting commercial and retail businesses within the Project Area in various ways. These programs have included the Façade Improvement Rebate Program that assisted commercial/industrial property owners and tenants with improvements to the exterior appearance of commercial buildings located in the Redevelopment Project Area. This program offered rebates ranging from 10% to 50% (maximum $10,000 per project) of improvement costs for each property. In addition, the Agency has produced designs for wayfinding signage and will be constructing signage throughout the Downtown area to guide visitors to specific landmarks and destinations.

The Agency will now be focusing on a variety of public works projects that will include street construction, streetscape, signage, public garages, land acquisition/disposition and other projects that will grow from public-private partnerships in accordance with the Redevelopment law. These projects may include mixed-use projects, public parking, public amenities for market-rate housing, etc.

**Next Steps**

1. **10th & H Street Mixed-Use Project:** The Agency owns four parcels of land at the southwest corner of 10th & H Streets. The Agency Board selected a developer ("Team Modesto") for development of a mixed use project on this block and has entered into a Memorandum of Understanding with Team Modesto to develop the site plan and to complete the environmental review. It is the Agency’s desire to partner with Team Modesto, negotiate an acceptable development agreement (including a detailed scope of development and respective responsibilities of both the Agency and the Developer), determine financing needs and details, and initiate development within a two-year period ending Summer 2010. In addition to the land value of the four parcels, the Agency may also consider other funding options per the Project Area Improvements CIP Account that may include streetscape construction and assistance with parking.

2. **Implement streetscape improvements on 10th Street, from J Street to the Tuolumne River:** The Agency will produce a Design Plan for implementation of streetscape improvements on 10th Street, from J Street to the Tuolumne River. The ultimate goal is to have a Plan in place that can be used as a partnership document between the Agency and private sector developers. A companion goal is to use the Plan to receive and target future funding per the Project Area Improvements CIP Account. The streetscape will promote shade, walkability, and public gathering places. Streetscape improvements will be designed to fit the context of the block as well as the street. The Plan will also consider the installation of traffic calming measures on I Street, particularly at the intersections of 10th and I Streets, to promote pedestrian access and safety.
**Downtown Cameras**

**Project Manager:** Ron Cloward  
**Budget:** $259,000

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**History**

Municipalities and other government agencies across the United States have implemented video surveillance programs in their downtown areas, including the regional cities of Clovis, Fresno, Stockton and Ripon. The City of Long Beach has also implemented a camera program that serves a very vibrant downtown with a variety of nightlife, similar to Modesto. Based on the success of these deployments, the Modesto Police Department has designed a camera system that will serve the interest of public safety and local business.

On any Friday or Saturday night there can be as many as 5,000 to 8,000 people in the downtown area. The ability to police this area has grown in cost over recent years. The cameras will allow the police department to conduct low profile policing that will aid in responses to incidents and investigations of crimes.

These cameras support City efforts to provide a safe public environment to conduct business, transit our public spaces, and enjoy our downtown with minimal fear of crime. Once deployed, the system will be beneficial and useful to many of the Departments within the City. Some potential uses are:

- **Tactical deployment of Police, Fire and Ambulance** - Video coverage will allow Dispatch, first responders and the Watch Commander to obtain immediate information via the cameras.
- **Investigations** - Video will be used as an investigative tool and as evidence per the Evidence Code.
- **Crime Prevention** - Cameras act as a deterrent to criminal activity.

CelPlan Technologies, Inc. has been selected as the vendor for this camera project for a total product and service cost of $239,788.27.

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**Next Steps**

1. In addition, there will be added storage of 10 TB in the City's computer system to accommodate a 60-day instant accessibility as well as added capability to bookmark specific events for future Police review and possible prosecution. The cost for this additional storage capacity is $20,000.

2. It is anticipated that additional cameras will be purchased and installed using funding from other agencies and/or adjacent businesses for future expansion of the camera system.
Affordable Housing Projects

**Project Manager:** Julie Hannon
**Budget:** $7,576,169

**HISTORY**

Beginning in 2000, the Agency has focused on producing an affordable housing project in the Downtown. The primary barriers to this project have been:

- Increased land prices coupled with unwilling sellers that could necessitate eminent domain proceedings
- Reduced site acreage available for purchase
- Increased need for parking for the housing development and for the general population of downtown workers, customers, and merchants

Because of the above issues, the Agency determined that additional funds would be needed for a downtown project versus a housing project in another area of the City. The Agency placed funds into this CIP Account in order to accumulate Housing Set-aside monies specifically for a downtown project.

In 2007, the administration of the Affordable Housing Funds was moved to the City's Parks, Recreation & Neighborhoods Department. The purpose of the administration relocation was to combine all affordable housing funds under one staff division, for ease in development and reporting.

**NEXT STEPS**

Beginning in FY 2006-2007, the Agency worked with the City of Modesto to evaluate several sites for possible affordable housing projects. The Agency identified the following projects and continues to work with the owner/developers to increase the affordable housing units in Modesto:

- Town Center (Roselle/Belharbour) - 20 rental units (Complete); 7 single-family units (In progress)
- Archway Commons (N. 9th St) - 150 rental units (In progress)
- Palm Valley Apartments (201 Coolidge) - 40 units (Complete), including rehabilitation of unit to handicapped standards and other security upgrades (In progress)
- Downey Avenue Senior Housing (412-416 Downey) - 12 units (In progress)
- Tower Park (17th & G) - Potential mixed-use project including affordable housing component (In progress)

The Agency in FY 2009-2010 intends to start looking at new potential projects for future development. The Agency's Housing staff will work with the Citizen's Housing and Community Development Committee (CH&CDC) to develop and approve new projects as directed by the Agency's Board. Once a recommendation is made by the CH&CDC a recommendation will be forwarded to the Agency's Board for final approval.
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EXHIBIT B

BUDGETARY CONTROL & AUTHORITY

The Redevelopment Agency’s Budgetary Control & Authority policy is adopted by the Agency as a part of the resolution adopting the annual budget.

Basic Policy
The Agency budget is adopted at the fund level, and the authorized amount of expenditure for each fund is listed in Exhibit “A” of the budget resolution.

Multi-year appropriations authorized in previous years and not yet expended continue to be valid until explicitly revoked, notwithstanding the annual appropriation shown on Exhibit “A.”

Executive Director’s Authority
The Executive Director may take the following budgetary actions without Agency approval:
- Transfer appropriations between and within a fund
- Appropriate unbudgeted Agency revenues
- Appropriate reserves approved for litigation on a case-by-case basis
- Revoke multi-year appropriations and close CIP projects

Finance Officer’s Authority
The Finance Officer may take the following budgetary actions without Agency approval:
- Appropriate unbudgeted grant interest
- Make technical budget corrections to implement the intent of Agency-approved actions and resolutions
- Transfer appropriations between sub-funds of a single fund

Assistant Executive Director’s Authority
The Agency Assistant Executive Director may take the following budgetary actions without Agency approval:
- Transfer appropriations between non-salary line-items within a department, within a single fund

Actions Reserved to the Agency
All other budgetary actions require the approval of the Agency. In addition, the following specific actions always require Agency approval, any other provision of this policy notwithstanding:
- Appropriation of undesignated reserves
- Appropriation of revenues
- Budgeting of inter-fund transfers
- Budgeting of inter-fund loans
- Creating or increasing any multi-year appropriation including CIP projects
A RESOLUTION APPOINTING STEVEN CARTER TO THE CITY OF MODESTO 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, and

WHEREAS, the Economic Development Committee met on June 18, 2009, and recommended appointment of Steven Carter to the Planning Commission.

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

SECTION 1. Steven Carter is hereby appointed to the Planning Commission with a term expiration of January 1, 2013.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member 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 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-275

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF PHILLIP HAWLEY FROM THE GOLF COURSE ADVISORY COMMISSION

WHEREAS, Phillip Hawley was appointed a member of the Golf Course Advisory Commission on July 3, 2007, and

WHEREAS, Phillip Hawley has tendered his resignation from the Golf Course Advisory Commission, and

WHEREAS, Phillip Hawley has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of Phillip Hawley from the Golf Course Advisory Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Phillip Hawley for his outstanding service to the community.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MICHAEL FORD FROM THE GOLF COURSE ADVISORY COMMISSION

WHEREAS, Michael Ford was appointed a member of the Golf Course Advisory Commission on September 23, 2008, and

WHEREAS, Michael Ford has tendered his resignation from the Golf Course Advisory Commission, and

NOW, THEREFORE, BE IT RESOLVED that the resignation of Michael Ford from the Golf Course Advisory Commission be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SHAPANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR EXTERNAL FINANCIAL STATEMENT AUDIT SERVICES TO BROWN, ARMSTRONG AND PAULDEN, BAKERSFIELD, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE A CONTRACT, FOR AN ESTIMATED ANNUAL COST OF $133,750

WHEREAS, Section 1306 of the Modesto City Charter mandates, "The Council shall employ, at the beginning of each fiscal year, an independent certified public accountant who, at such time or times as may be specified by the Council, at least annually, who shall examine the books, records, inventories, and reports of all officers and employees who receive, handle or disburse public funds and all such other officers and employees and departments as the Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the Council," and

WHEREAS, on January 27, 2009, the Purchasing Manager issued Request for Proposal No. 0809-19 for the procurement of external financial statement audit services to forty (40) prospective proposers, posted the proposal on the City’s website and formally advertised as required by law, and

WHEREAS, on March 11, 2009, bids were formally opened in the City Auditor’s Office, eight (8) companies chose to respond, and

WHEREAS, based on being ranked highest in total evaluation criteria by an evaluation committee and after negotiation with the proposer, the City Auditor recommended the award of contract for external financial statement audit services to Brown, Armstrong and Paulden, Bakersfield, CA for an estimated annual cost of $133,750, and
WHEREAS, funds are budgeted and available in account 0100-060-0601-0235, for external financial audit services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for external financial statement audit services to Brown, Armstrong and Paulden, Bakersfield, CA, for a four (4) year contract, with an option to extend the contract for one (1) additional year, for an estimated annual cost of $133,750.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH AARON READ & ASSOCIATES FOR STATE LOBBYING SERVICES FOR AN AMOUNT NOT TO EXCEED $20,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 1, 2001, the City entered into an agreement with Aaron Read & Associates (ARA) to perform legislative advocacy in Sacramento, and

WHEREAS, ARA has provided key and critical advocacy for the City since January 2001, and

WHEREAS, staff recommends that the City of Modesto execute a standard agreement for consultant services with Aaron Read & Associates for state lobbying services for an amount not to exceed $20,000 in FY 2009-10, and

WHEREAS, on June 2, 2009, the City Council approved a FY 2009-10 General Fund operating budget which included funding for said contract,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby approves a standard agreement for consultant services with Aaron Read & Associates for state lobbying services for an amount not to exceed $20,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2009-279


WHEREAS, the City of Modesto ("City") has conducted proceedings resulting in the formation of Community Facilities Districts ("CFDs") and the issuance and sale of bonds or debt pursuant to the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code Section 53311, et seq.; the "Act"); and

WHEREAS, pursuant to the Act, the City has duly recorded Notices of Special Tax Lien and has duly and regularly levied special taxes, which special taxes and interest and penalties thereon constitute a lien against the parcel of the land against which it was levied until the same are paid, which liens secure in whole or part debt issued pursuant to the Act; and

WHEREAS, certain installments of the special taxes have not been paid when due, and certain special taxes may not be paid when due in the future; and

WHEREAS, pursuant to Section 53356.1(a) of the Act, the CFDs are authorized to order the special taxes collected by an action brought in the Superior Court to foreclose their liens; and

WHEREAS, pursuant to Section 53356.1(b) of the Act, the CFDs covenanted for the benefit of owners of the debt to file such foreclosure actions on behalf of the debt holders and are authorized to order the County Auditor to credit the delinquent special taxes upon the
secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto; and

WHEREAS, on July 3, 2007, the City Council authorized the City Manager to execute a legal services agreement ("Agreement") with Sherman & Feller, a Law Corporation ("Attorney"), a firm experienced and qualified to prosecute such judicial foreclosure actions; and

WHEREAS, Attorney is still under contract to provide said services; and

WHEREAS, in an effort to prevent large delinquencies from accumulating, the City desires to reaffirm an additional administrative foreclosure threshold in the amount of $5,000; and

WHEREAS, this additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto acting as the Legislative Body of all of the City of Modesto Community Facilities Districts that:

1. The City finds that the Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special taxes, and hereby orders that the delinquent special taxes listed on the attached Exhibit A and all future delinquent special taxes as to such property, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

   2. City staff in conjunction with special counsel and other City consultants are authorized and directed if and as applicable, pursuant to Government Code Section 53356.2: 1) to record notices of intent to remove the delinquent special taxes from the tax rolls, and 2)
to request that the applicable County officials remove current and future delinquent special taxes from the tax rolls.

3. The Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits on redemption prior to entry of judgment as well as on post-judgment redemption, and hereby authorizes Attorney to require payment on its behalf of all costs and all attorneys’ fees incurred to collect the delinquent special taxes as a condition of such redemption as provided in the Agreement.

4. An additional administrative foreclosure threshold in the amount of $5,000 is reaffirmed. This additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

(SEAL)
### Exhibit "A"

**Delinquent Parcels as of July 8, 2009**

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Exhibit "A"

Delinquent Parcels as of July 8, 2009
CFD 2003-1 (Fairview Village)

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<td>CFD</td>
<td>Tax Year</td>
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A RESOLUTION APPROVING AMENDMENT #1 TO TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH OMNI-MEANS, LTD. FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILITIES FEES PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AMENDMENT #1 TO TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT

WHEREAS, on December 12, 2007, by Resolution No. 2007-734, the Council approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. ("Consultant") for the preparation of various technical studies as well as on-call consultant services relating to the City’s transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-735, the Council approved Task Order No. 1 to the Master Agreement with Omni-Means for the update of the streets portion of the Capital Facilities Fees Program (CFF), and

WHEREAS, the City desires to expand the initial scope of work to include a functional expenditure tracking system necessary, and

WHEREAS, it is in the City’s best interest to complete the tracking system and streets update to the CFF program as there are a number of changes to the fee update that would not be ratified and would leave the validity of the current fee outdated and inconsistent with current planning and proposed capital improvement planning, and

WHEREAS, there are sufficient appropriations in the CFF operating budget to fund the cost of the tracking system and to complete the update,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment #1 to Task Order No. 1 to the Master Professional Services Agreement
for Consultant Services with OMNI-MEANS, Ltd. for the update of the streets portion of the Capital Facilities Fees Program, in an amount not to exceed $15,970 is hereby approved.

IT IS FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment #1 to Task Order No. 1 to the Master Professional Services Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
AMENDMENT #1 TO TASK ORDER NO. 1
FOR OMNI-MEANS MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES

This AMENDMENT TO TASK ORDER No. 1, made and entered into in the City of Modesto, State of California, this ___ day of ____________, by and between the CITY OF MODESTO, a Charter City and municipal corporation of the State of California, hereinafter referred to as “CITY”, and OMNI-MEANS, LTD., hereinafter referred to as “CONSULTANT”.

RECITALS: This Amendment #1 to Task Order No. 1 is made with reference to the following recitals:

A. A Master Professional Services Agreement for Consultant Services was entered into between CITY and CONSULTANT on December 12, 2007,

B. Task Order No. 1 to the Master Professional Services Agreement for Consultant Services was entered into between CITY and CONSULTANT on December 12, 2007,

C. CITY and CONSULTANT have agreed that an additional $15,970 will be paid to Consultant in full compensation for the additional work.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Section 2 of Task Order No. 1 to the Master Professional Services Agreement for Consultant Services shall be amended to read as follows:

   SCOPE OF SERVICES. Consultant shall perform the services described in Exhibit “A” and Exhibit “B” attached hereto and incorporated herein by
reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of the CITY.

2. Section 4 of Task Order No. 1 to the Master Professional Services Agreement for Consultant Services shall be amended to read as follows:

   COMPENSATION: For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $114,690. CONSULTANT shall be paid at the times and manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

3. Except as otherwise provided herein, each and every and all of the terms and conditions of Task Order No. 1 to the Master Professional Services Agreement for Consultant Services between the parties dated December 12, 2007, shall continue in full force and effect.
IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Amendment #1 to Task Order No. 1 for Omni- Means Master Professional Services Agreement for Consultant Services in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-____, adopted by the Council of the City of Modesto on the _____ day of __________, 2009. and CONSULTANT has caused this Amendment to Task Order No. 1 to be duly executed.

CITY OF MODESTO, a municipal corporation

By ____________________
GREG NYHOFF, City Manager

CONSULTANT, OMNI-MEANS, Ltd.

By ____________________
Name Title

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney
(Seal)

By ____________________
ROLAND STEVENS,
Senior Deputy City Attorney

Consultant's Federal ID

# __________
ATTEST:

By ____________________
STEPHANIE LOPEZ, City Clerk

* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.

Partnership - signature of a partner required
## EXTRA WORK AUTHORIZATION

**Attn.:** Amy Gedney  
**Date:** 5/7/09

**Address:** City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, CA 95353

**Project:** Capital Facilities Fee 2008 Update  
**Job No.:** 25-4750-02  
**File No.:** EM569EWA001

**Project Manager** Martin Inouye

**Type:** □ Task Authorization  
☒ Additional Work  
□ Change of Scope  
□

---

**THE FOLLOWING WORK WILL BE PERFORMED UNDER THE SAME TERMS AND CONDITIONS AS IN THE ORIGINAL AGREEMENT UNLESS OTHERWISE STATED.**

<table>
<thead>
<tr>
<th>DESCRIPTION OF ADDITIONAL SERVICES</th>
<th>COMPENSATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>EWA Task 1 – Finalize Expense Tracking System &amp; provide training to staff as necessary.</td>
<td>$4,920.00</td>
</tr>
</tbody>
</table>
| Principal 8 hours @ $200 = $1,600  
Transportation Planner 40 hours @ $83 = $3,320*  
*Time needed dependent on amount of revisions City requests. Could be higher or lower than projected here. |              |
| EWA Task 2 – Finalize Draft Report to City Council with comments from City Staff, including recent changes to CIP (Barnes) | $6,990.00    |
| Principal 12 hours @ $200 = $2,400  
Project Engineer 20 hours @ $105 = $2,100*  
Transportation Planner 30 hours @ $83 = $2,490*  
*Time needed dependent on amount of revisions City requests. Could be higher or lower than projected here. |              |
| EWA Task 3 – Attend City Council meetings as required for fee update approval (assume 2 meeting)   | $4,060.00    |
| Principal 12 hours @ $200 = $2,400  
Transportation Planner 20 hours @ $83 = $1,660*  
*Time needed dependent on amount of revisions City requests. Could be higher or lower than projected here. |              |
| TOTAL                                                                                              | $15,970.00   |

---

**Consultant:**  

OMNI-MEANS, LTD.

**Date:** 5/7/09
A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILITIES FEE PROGRAM AND APPROPRIATING $15,970, FROM CFF FUND 1390-140-0260-0242 TO MY ACCOUNT 1390-140-0266-0242

WHEREAS, the City has determined that the Capital Facilities Fee Program should be updated every five years to ensure that fees are in place for the construction of infrastructure to serve development, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-736, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. for the preparation of various technical studies as well as on-call consultant services relating to the City’s transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-737, the Council of the City of Modesto approved Task Order No. 1 to the Master Agreement for the preparation of the streets portion of the Capital Facilities Fee update, and

WHEREAS, on July 7, 2009, by Resolution No. 2009-280, the Council of the City of Modesto approved Amendment #1 to Task Order No. 1 to the Master Agreement,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2009-2010 operating budget for the preparation of the streets portion of the Capital Facilities Fee program and transfer $15,790 from 1390-140-0260-0242 to 1390-140-0266-0242 for professional services.

BE IT FURTHER RESOLVED that the Finance Director, or designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

SUSANA ALCALA WOOD, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in Exhibit A, which is incorporated by reference herein..

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

FINANCE
A Sub-Fund has been created in the Wastewater Fund to account for future PCE Litigation settlement payments. This adjustment transfers previously received settlement payments in the Wastewater Fund to the PCE Litigation Sub-Fund.

APPROPRIATIONS

FROM: 6210-800-8000-8003 Contingency Reserves (11,723,289)
TO: 6212-800-8000-8003 Contingency Reserves 11,723,289

TRANSFERS BETWEEN FUNDS

FROM: 6210-700-7000-7621 Transfer Out to Fund 6212 11,723,289
TO: 6212-700-7000-9621 Transfer In from Fund 6210 11,723,289

A Sub-Fund has been created in the Water Fund to account for future PCE Litigation settlement payments. This adjustment transfers previously received settlement payments in the Water Fund to the PCE Litigation Sub-Fund.

APPROPRIATIONS

FROM: 6100-800-8000-8003 Contingency Reserves (11,636,577)
TO: 6112-800-8000-8003 Contingency Reserves 11,636,577

TRANSFERS BETWEEN FUNDS

FROM: 6100-700-7000-7610 Transfer Out to Fund 6112 11,636,577
TO: 6112-700-7000-9610 Transfer In from Fund 6100 11,636,577

PUBLIC WORKS
This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project H461, Pelandale 6-Lanes Dale to McHenry, 1410-430-H461-8122, for the reimbursement of escrow fees, and appropriates these revenues for Land/ROW Acquisition, 1410-430-H461-6030.
This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project W003, Downstream Improvements Industrial Tank/ Pipe, 6180-430-W003-8122, for the reimbursement of escrow fees, and appropriates these revenues for Land/ROW Acquisition, 6180-430-W003-6030.

This budget adjustment recognizes unbudgeted revenue in the Gas Tax Fund, 0700-160-1612-8122, for reimbursements made to the City of Modesto for damages to traffic signal and/or street lighting due to automobile accidents, and appropriates these revenues to the Electrical Division to restock materials, 0700-160-1612-0308.

This budget adjustment recognizes unbudgeted Interfund Labor revenue and re-appropriates these funds to offset overtime expenses in the Gas Tax Fund.
| 0700-480-4724-0130 | Overtime | 10,000 |