RESOLUTION ACCEPTING THE RESIGNATION OF JAY LOMELI FROM THE DISABLED ACCESS APPEALS BOARD

WHEREAS, Jay Lomeli was appointed to serve as a member of the Disabled Access Appeals Board on February 7, 2017, and

WHEREAS, Jay Lomeli has tendered his resignation from the Disabled Access Appeals Board.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby accepts the resignation of Jay Lomeli from the Disabled Access Appeals Board.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

[SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE APPOINTMENT OF AMIN VOHRA AS THE 2017 PLANNING COMMISSION REPRESENTATIVE TO THE BOARD OF ZONING ADJUSTMENT WITH A TERM EXPIRATION OF DECEMBER 31, 2017

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 Planning Commission met on April 3, 2017, and recommended the appointment of Amin Vohra as its representative to the Board of Zoning Adjustment for 2017.

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

1. Amin Vohra is hereby appointed as the 2017 Planning Commission representative to the Board of Zoning Adjustment, with a term expiration of December 31, 2017.

2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2017-191

RESOLUTION OF INTENTION TO ANNEX TERRITORY TO CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH
BEYER PARK #2), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN
THE TERRITORY PROPOSED TO BE ANNEXED (ANNEXATION #1), AND
RECINDING RESOLUTION 2016-345

WHEREAS, pursuant to Chapter 3.5 of Part 1 of Division 2 of Title 5
(commencing with Section 53311) of the California Government Code, commonly
known as the "Mello-Roos Community Facilities Act of 1982" (the Act), proceedings for
annexation of additional territory to an existing community facilities district may be
instituted by the adoption by the legislative body of a resolution of intention to annex
such territory, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2007-
270, adopted on, May 8, 2007 (the Resolution of Formation) establish Community
Facilities District No. 2007-1 (North Beyer Park #2) (the District), and

WHEREAS, on March 27, 2015, HealthSouth California Real Estate, LLC, the
owners of approximately 4.94 acres located at 1303 Mable Avenue, APN 082-014-041
(Property), filed a completed application package requesting that its Property be annexed
to CFD No. 2007-1, and

WHEREAS, on September 13, 2016 the Council, Resolution No. 2016-345,
approved a Resolution of Intention to annex the Property to CFD No. 2007-1 and
authorized the levy of a special tax on the Property, and

WHEREAS, subsequent to this approval, staff realized that the Rate and Method
of Apportionment (RMA) adopted in 2007, did not accurately reflect the facilities the
Property would utilize, and
WHEREAS, the public hearing originally set for October 25, 2016 was continued to November 1, 2016, and

WHEREAS, on November 1, 2016, the public hearing item was removed from the Council agenda and the annexation process was terminated, and

WHEREAS, the Property will utilize all the services authorized set forth in the Formation Hearing Report, dated May 30, 2007, except the storm drain basin, and

WHEREAS, pursuant to the Formation Hearing Report, the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax rates will be "assigned to Parcels added to the CFD as a result of future annexations;" and

WHEREAS, the Formation Hearing Report is being amended to reflect the new maximum special tax rates associated with the Property, and

WHEREAS, because the Property is not utilizing the storm drain basin, it will not be required pay the portion of the Annual Maintenance Special Tax attributed to the storm drain basin, and

WHEREAS, City Council Resolution No. 2016-345 should be rescinded so that the annexation process for the Property can be restarted so that an Amended Rate and Method of Apportionment can be adopted to reflect a new Maximum Annual Special Tax Rate for the Property, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation, pursuant to Section 53339 of the Act, of certain territory to the District, and

WHEREAS, the territory to be annexed is within the City limits.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it finds as follows:

1. The above recitals are true and correct, and

2. The territory is proposed to be annexed to the District (the Annexed
   Territory) under the terms of the Act, and

3. The original boundaries of the District are shown on a map entitled
   "Proposed Boundaries of Community Facilities District No. 2007-1 of the
   City of Modesto, County of Stanislaus, State of California” on file with
   the County Recorder of the County of Stanislaus, at Volume 4 of Maps of
   Assessment and Community Facilities Districts, at Page 83, and

4. The Annexed Territory is described in Exhibit “5” to this Resolution, and

5. The boundaries of the Annexed Territory are also shown on the map
   thereof, entitled “Proposed Boundaries of Annexation No. 1 to the City of
   Modesto Community Facilities District No. 2007-1 (North Beyer Park
   #2),” on file in the office of the City Clerk, and hereby approved and
   adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets
   and Highways Code, the City Clerk shall endorse her certificate on the
   original and one copy of the map evidencing the date and adoption of this
   Resolution, file the original in her office and, not later than ten (10) days
   after the adoption of this Resolution, file a copy of the map with the
   County Recorder of the County of Stanislaus. The map shall contain the
   legends provided in Sections 3110 and 3110.5 of the California Streets and
   Highways Code, including a reference to the title, book, page and
recording date of the original boundary map of the District, and

6. The type of services authorized to be provided to the District are set forth in the Formation Hearing Report, dated May 30, 2007, a copy of which is attached hereto as Exhibit “2”. The Annexed Territory will utilize all of the services authorized to be provided with the exception of the storm drain basin, and

7. The Annual Maintenance Special Tax component of the special tax to be levied in the Annexed Territory are set forth in the Amended Rate and Method of Apportionment (Amended RMA) attached hereto as Exhibit “4”. It is the intention of the City Council that in the event all of the subject taxes are not approved by the qualified electors of the Annexed Territory at an election to be held subsequent to the approval of this Resolution of Intention, that then, and in that sole event, the annexation of the Annexed Territory shall be a nullity, and void from the date of the public hearing on this resolution where it is approved, and

8. Pursuant to the Formation Hearing Report attached hereto as Exhibit “3”, the Maximum Annual Special Maintenance Tax shall be adjusted annually, and

9. Pursuant to the Formation Hearing Report, the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax rates will be “assigned to Parcels added to the CFD as a result of future annexations,” and

10. The Formation Hearing Report will be amended to reflect the Amended
RMA for the Annexed Territory, with the following maximum tax rates for the Annexed Territory: the Maximum One-Time Facilities Special Tax for the Annexed Territory is $0.00 and the Maximum Annual Maintenance Special Tax is $4,873.79. Said rates are established in accordance with Section 53339.3 of the Act, and

11. A public hearing upon this Resolution shall be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, July 11, 2017 in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, such time being not less than thirty (30) or more than sixty (60) days following the adoption thereof, and

12. At the hearing, any interested persons for or against the annexation of the Annexed Territory to the District, and the levy of the special tax therein, may appear and will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing, and

13. The City Clerk is directed to publish, not later than seven days prior thereto, a notice of the hearing, in the form required by the Act, in a newspaper of general circulation published in the area of the District, being the Modesto Bee, and otherwise in accordance with Section 6061 of
the California Government Code, stating (a) the text or a summary of this Resolution, (b) the time and place of the hearing, and (c) that all interested persons for or against the proposed annexation or the levying of the special tax therein will be heard, and

14. If a majority (but at least six) of the registered voters residing within the District or a majority (but at least six) of the registered voters residing within the Annexed Territory, or the owners of one-half or more of the area of land in the District and not exempt from the special tax, or the owners of one-half or more of the Annexed Territory, file written protests against the proposed annexation of the Annexed Territory to the District, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to annex the Annexed Territory, or to levy the District special tax therein, shall be taken for a period of one year from the date of the election of the Council on the issues discussed at the hearing, and

15. At the conclusion of the hearing, if the Council determines to annex the Annexed Territory, it shall then submit the levy of the District special tax to the qualified electors of the Annexed Territory in a special election. If held, the proposed voting procedure at the election is expected to be a landowner vote with each landowner of record as of the close of the Hearing having one vote for each acre of land or portions thereof owned within the Annexed Territory. Ballots for the special election may be distributed by mail or by personal service.
16. City Council Resolution No. 2016-345 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
PROPOSED BOUNDARIES OF ANNEXATION NO. 1 TO THE
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT
NO. 2007-1 (NORTH BEYER PARK #2)
CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

HEALTHSOUTH HOSPITAL

PARCEL 1
APN 052-014-041
4.94 AC.

COFFEE ROAD (PARKWAY)

MOUNTAIN DRIVE

PARCEL 2
APN 052-014-040
3.71 AC.

PARCEL 3
APN 052-014-042
3.71 AC.

PARCEL 4
APN 052-014-043
3.71 AC.

LEGEND
BOUNDARY OF PROPOSED ANNEXATION TO
COMMUNITY FACILITIES DISTRICT 2007-1
APN ASSESSED (PARCEL) NUMBER

CURVATURE TABLE

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FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF
MODESTO THE DAY OF _______ 2016

STEPHANIE LOPEZ, CITY CLERK

I HEREBY CERTIFY THAT THIS MAP SHOWING PROPOSED BOUNDARIES OF
ANNEXATION NO. 1 TO THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH BEYER PARK #2, CITY OF MODESTO, COUNTY OF STANISLAUS,
STATE OF CALIFORNIA) WERE DRAWN IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE CITY OF MODESTO AND APPLIES A MATCHED METERED HEAT SEAL IN THE
DAY OF _______ 2016, BY ____________________________________________

STEPHANIE LOPEZ, CITY CLERK

I HEREBY CERTIFY THAT THIS MAP SHOWING PROPOSED BOUNDARIES OF
ANNEXATION NO. 1 TO THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH BEYER PARK #2, CITY OF MODESTO, COUNTY OF STANISLAUS,
STATE OF CALIFORNIA) WERE DRAWN IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE CITY OF MODESTO AND APPLIES A MATCHED METERED HEAT SEAL IN THE
DAY OF _______ 2016, BY ____________________________________________

SIEGFRIED
DESCRIPTION OF AUTHORIZED SERVICES AND FACILITIES TO BE FUNDED BY COMMUNITY FACILITIES DISTRICT NO. 2007-1

The authorized services to be funded by special tax revenues include maintenance and repair of parks, landscaped medians, storm drainage basins, and related facilities, including but not limited to, concrete curbs and walks, trees, shrubs, vines, ground cover, turf, lights and irrigation systems. The services to be provided include, but are not limited to, litter and debris removal, graffiti abatement, painting repairs to landscape structures, building maintenance and repairs, pruning, staking, fertilizing, plant replacement and restoration, fire and weed control, erosion control, mowing of lawns, trimming of vegetation, and maintenance, repair and replacement of lighting systems within the parks.

The facilities authorized to be funded by special tax revenues include installation of the landscaped medians on Oakdale and Coffee Roads, which may but will not necessarily include, concrete curbs and walks, trees, shrubs, ground cover, lights, and irrigation systems.

The District may also fund any of the following: (i) administrative fees of the City related to the District, including costs associated with preparing the annual special tax levy, or (ii) costs associated with legal services, advertising, legal notices, and mailings related to formation or administration of the District.
APPENDIX B

ANNEXATION NO. 1
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel within Annexation No. 1 of Community Facilities District No. 2007-1 (North Beyer #2) shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in Annexation No. 1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to Annexation No. 1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of Annexation No. 1.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annexation No. 1” means the property included within the first annexation into CFD No. 2007-1.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.
“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

“Authorized Services” means those services that are authorized to be funded by the CFD.

“CFD” or “CFD No. 2007-1” means the City of Modesto Community Facilities District No. 2007-1 (North Beyer #2).

“CFD Formation” means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of the CFD.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2016,

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2016, and

- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

“Final Map” means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

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

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D.
“Maximum One-Time Facilities Special Tax” means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

“Multi-Family Property” means all Parcels in Annexation No. 1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

“Net Taxable Acreage” or “Net Taxable Acre” means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

“One-Time Facilities Special Tax” means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

“Original Parcel” means an Assessor’s Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor’s Parcel number) that is in Annexation No. 1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

“Other Property” means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

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

“Public Property” means any property within the boundaries of Annexation No. 1 that is owned by the federal government, State of California, County, City, or other public agency.
“Single Family Detached Lot” means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“SuccessorParcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of Annexation No. 1 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within Annexation No. 1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within Annexation No. 1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in Annexation No. 1. The Administrator shall also determine (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in Annexation No. 1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies.
separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. **MAXIMUM SPECIAL TAXES**

1. **Original Parcels**

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

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<tr>
<th>Fiscal Year 2016-17 Assessor's Parcel Number or Subdivision Map Parcel Number</th>
<th>Fiscal Year 2016-17 Maximum One-Time Facilities Special Tax*</th>
<th>Fiscal Year 2016-17 Maximum Annual Maintenance Special Tax*</th>
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<tr>
<td>082-014-041</td>
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<td>$4,873.79</td>
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</tbody>
</table>

*Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

2. **Successor Parcels**

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

a. **All Successor Parcels are Single Family Detached Lots**

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

b. **No Successor Parcels are Single Family Detached Lots**

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:
Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax per Net Taxable Acre and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

c. Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.

Step 2: Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.

Step 3: Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 4: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.
Step 5: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.

Step 6: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.

Step 7: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2017 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2017 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.
published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in Annexation No. 1 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

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

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within Annexation No. 1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for Annexation No. 1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual
Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. **EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. **INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. **ENFORCEMENT**

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

FORMATION HEARING REPORT

CONTENTS

Introduction

A. Description of Facilities and Services
B. Proposed Boundaries of the Community Facilities District
C. Services and Facilities Cost Estimates
D. Description of the Rate and Method of Apportionment of Special Tax

Exhibit A – Description of the Authorized Services and Facilities Proposed to be Funded
Exhibit B – Services and Facilities Cost Estimates
Exhibit C – Rate and Method of Apportionment of Special Tax
INTRODUCTION. The City Council (the “City Council”) of the City of Modesto (the “City”) did on May 8, 2007, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the “Law”), adopt Resolution No. 2007-270, a Resolution declaring its intention to establish the City of Modesto Community Facilities District No. 2007-1 (North Beyer #2) and to authorize the levy of a special tax within the CFD. In the Resolution of Intention, the City Council expressly ordered the preparation of a written Formation Hearing Report (the “Report”) for the proposed Community Facilities District (the “District”), as required by Section 53321.5 of the Law.

Section 53321.5 of the Law does direct that the Report generally contain the following:

1. A brief description of the facilities and services to be funded by the District; and

2. An estimate of the cost of providing the facilities and services.

For particulars, reference is made to the Resolution of Intention for the District, as previously approved and adopted by the City Council.

NOW, THEREFORE, the following data is submitted pursuant to the direction of the City Council:

A. DESCRIPTION OF SERVICES. A description of the services and facilities eligible to be funded by the District is provided in Exhibit “A” attached hereto and hereby made a part hereof.

B. PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. The proposed boundaries of the District are those parcels on which special taxes may be levied to pay for the costs of the services and facilities. The proposed boundaries of the District are described in the map of the District recorded in Book 4 on Page 83 of Maps of Assessment and Community Facilities Districts in the office of the County Recorder for the County of Stanislaus, a copy of which map is on file with the City Clerk. Additional property is expected to be annexed into the District in future years; an amended boundary map will be recorded after each annexation.

C. COST ESTIMATE. The cost estimate for funding the authorized services and facilities is set forth in Exhibit “B” attached hereto and hereby made a part hereof.

D. DESCRIPTION OF THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX. A one-time facilities special tax will be levied on all parcels of taxable property at the issuance of a structural building permit. In addition, an annual maintenance special tax will be levied on all parcels of taxable property pursuant to the Rate and Method of Apportionment of Special Tax (the “RMA”). The RMA, in its entirety, is set forth in Exhibit “C” attached hereto and hereby made a part hereof.
EXHIBIT A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

DESCRIPTION OF AUTHORIZED SERVICES AND FACILITIES TO BE FUNDED BY
COMMUNITY FACILITIES DISTRICT NO. 2007-1

The authorized services to be funded by special tax revenues include maintenance and repair of parks, landscaped medians, storm drainage basins, and related facilities, including but not limited to, concrete curbs and walks, trees, shrubs, vines, ground cover, turf, lights and irrigation systems. The services to be provided include, but are not limited to, litter and debris removal, graffiti abatement, painting repairs to landscape structures, building maintenance and repairs, pruning, staking, fertilizing, plant replacement and restoration, fire and weed control, erosion control, mowing of lawns, trimming of vegetation, and maintenance, repair and replacement of lighting systems within the parks.

The facilities authorized to be funded by special tax revenues include installation of the landscaped medians on Oakdale and Coffee Roads, which may but will not necessarily include, concrete curbs and walks, trees, shrubs, ground cover, lights, and irrigation systems.

The District may also fund any of the following: (i) administrative fees of the City related to the District, including costs associated with preparing the annual special tax levy, or (ii) costs associated with legal services, advertising, legal notices, and mailings related to formation or administration of the District.
EXHIBIT B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT No. 2007-1
(NORTH BEYER #2)

<table>
<thead>
<tr>
<th>SERVICES COST ESTIMATE (2007$)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance of Pelandale Median and Parkway, Oakdale Road Median and Parkway, and Coffee Road Median</td>
</tr>
<tr>
<td>Maintenance of Park/Basin and Marble Road</td>
</tr>
<tr>
<td>Annual CFD Administration Costs</td>
</tr>
<tr>
<td>Total Estimated Services Costs (2007 $)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FACILITIES COST ESTIMATE (2007$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landscaped Medians on Oakdale and Coffee Roads</td>
</tr>
<tr>
<td>Less: funding from CFD No. 1997-1</td>
</tr>
<tr>
<td>Total Costs Funded by CFD No. 2007-1</td>
</tr>
</tbody>
</table>

* Represents total estimated costs for authorized services once all properties anticipated to annex into the District have been annexed. Prior to such time, actual expenditures will be limited to special tax revenues collected within the District.
EXHIBIT C

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein “CFD No. 2007-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on
delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

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

"Assessor’s Parcel Map" means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2007-1.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

"City" means the City of Modesto.

"City Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,

- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and

- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term "Final Map" shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.
"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D.

"Maximum One-Time Facilities Special Tax" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"Net Taxable Acreage" or "Net Taxable Acre" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor’s Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor’s Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Other Property" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

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

“Public Property” means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.

“Single Family Detached Lot” means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“Successor Parcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the
Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.

C. MAXIMUM SPECIAL TAXES

1. Original Parcels

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

<table>
<thead>
<tr>
<th>Fiscal Year 2007-08</th>
<th>Fiscal Year 2007-08</th>
<th>Fiscal Year 2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessor’s Parcel Number or Subdivision Map</td>
<td>Maximum One-Time Facilities Special Tax*</td>
<td>Maximum Annual Maintenance Special Tax*</td>
</tr>
<tr>
<td>Parcel Number</td>
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<td>$35,070</td>
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<td>Parcel 2 of Parcel Map</td>
<td>$114,030</td>
<td>$18,879</td>
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<tr>
<td>55-PM-12</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

2. Successor Parcels

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

a. All Successor Parcels are Single Family Detached Lots

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.
b. **No Successor Parcels are Single Family Detached Lots**

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

**Step 2:** Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

**Step 3:** Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

c. **Some, But Not All, Successor Parcels are Single Family Detached Lots**

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

**Step 1:** Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.

**Step 2:** Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.

**Step 3:** Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.
Step 4: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.

Step 5: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.

Step 6: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.

Step 7: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as
published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

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

   Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

   Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

   Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.
F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.

I. ENFORCEMENT

All delinquent One-Time Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
RESOLUTION AMENDING THE FISCAL YEAR 2016-2017 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2016-17,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2016-17 Annual Operating and Capital Improvement budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the Acting 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 in a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A

FISCAL YEAR 2016-17

CITY MANAGER'S OFFICE
A budget adjustment is necessary to correct the budgeted amounts for the Budget Division’s expenses and revenues. This adjustment will move the adopted budgeted amounts from the previous cost center that resided in Finance (12110) to the new cost center that resides in the City Manager’s Office (02110). This action will correct the budget appropriations for the Budget Division within their new department, the City Manager’s Office which began at the start of FY 2016-17. This is a technical adjustment, and no increases to the overall appropriation for the Budget Division that were adopted as part of the budget will be made.

PUBLIC WORKS
In June 2011, the City was awarded a State of Good Repair Grant (SGR) for improvements to the Bus Maintenance Facility. These improvements include installation of a shade structure, purchase of boom lift and floor machine. In September 13, 2016 Council authorized the funding of Capital Improvement Project #100964 to track all expenditures associated with the SGR grant; however, it did not identify Capital from Non-Capital expenses, and there were two Capital projects within the Bus Maintenance Facility which should be tracked separately. A budget adjustment is necessary to decrease both the revenue and expense budgets in Capital Improvement Project #100964, Bus Maintenance Facility Improvement, in the amount of $543,282, and transfer these funds to the Bus Maintenance Facility Equipment Requirements Non-Capital Project #101021 to correctly identify the grant expenditures. A second budget adjustment is necessary to decrease both the revenue and expense budgets in Capital Improvement Project #100964, Bus Maintenance Facility Improvement, in the amount of $930,000, and transfer these funds to the Bus Maintenance Facility Parts Storage Room Upgrade Capital Project #101021 to correctly identify the grant expenditures.

A budget adjustment is necessary to transfer $600,000 from Capital Improvement Project #100964, Bus Maintenance Facility Improvement, Equipment Acquisition to Construction for the construction of a shade structure over the Bus Maintenance Facility bay doors.

UTILITIES
A budget adjustment is necessary to reconcile the State Water Resources Control Board Clean Water State Revolving Fund loan and Proposition 1 and Proposition 84 grants, and to increase FY2016-17 Capital Improvement Program budget by $213,297 for expenditures Contingency-CIP and Land Acquisition in Capital Improvement Project #100521, North Valley Regional Recycled Water Program.
RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE STATE OF CALIFORNIA, OFFICE OF EMERGENCY SERVICES, TO HOUSE AND MAINTAIN A TYPE 2 HAZMAT EMERGENCY RESPONSE VEHICLE AND AN AGREEMENT TO REIMBURSE THE CITY FOR CERTAIN TRAINING COSTS RELATING TO THE HAZARDOUS MATERIALS BY RAIL TRAINING PROGRAM AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, the California Governor’s Office of Emergency Services (CAL OES), Fire, Rescue, and HazMat program has developed a Regional Hazardous Materials (HazMat) program that is similar to the CAL OES Fire Engine Program that the City currently participates in, and

WHEREAS, the program is intended to provide additional response capability and fill in gaps across the state where there is limited or no response capability for Hazardous Materials by Rail, and

WHEREAS, CAL OES will be distributing twelve (12) Type 2 HazMat Emergency Response vehicles throughout the state of California and Modesto has been selected to house and staff one of these apparatus, and

WHEREAS, CAL OES will coordinate and reimburse all of the required training for personnel who are not trained to the Specialist level for a FIRESCOPE Type 2 HazMat Response, and

WHEREAS, CAL OES recognizes that there might be a need for this vehicle to respond to local non-rail HazMat spills, and

WHEREAS, assigned local agencies will be permitted to use the vehicle within their jurisdictions as long as it’s not the primary response vehicle, and
WHEREAS, the Modesto Fire Department is responsible for the first $100 for all repairs and any repairs exceeding $100 are the responsibility of CAL OES, and

WHEREAS, when CAL OES makes a request for the apparatus, the Modesto Fire Department must respond to the requested location with a minimum of five (5) Hazardous Materials Specialists, and

WHEREAS, CAL OES will provide reimbursement to the City for the Fire Department’s costs of backfilling positions or overtime costs to allow Fire Department staff to attend and successfully complete hazardous materials training required by Cal OES, specifically related to the Hazardous Materials by Rail Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between the City of Modesto and the State of California, Office of Emergency Services, to house and maintain a Type 2 HazMat Emergency Response Vehicle is hereby approved.

BE IT FURTHER RESOLVED, that the Agreement between the City of Modesto and the State of California, Office of Emergency Services to Reimburse the City for certain training costs relating to the Hazardous Materials by Rail Training program is hereby approved.

BE IT FURTHER RESOLVED, that the Acting City Manager, or his designee, is authorized to execute the Agreements in a form approved by the City Attorney.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING A THREE YEAR AGREEMENT WITH ACCELA, SAN RAMON, CA FOR THE CONTINUED USE OF THEIR PUBLIC STUFF PLATFORM FOR THE GOMODESTO! MOBILE APPLICATION AT A FIRST YEAR COST OF $21,930 AND A TOTAL COST OF $71,495, AND AUTHORIZING THE ACTING CITY MANAGER OR HIS DESIGNEE TO SIGN THE AGREEMENT

WHEREAS, the GoModesto! mobile application has become a central tool in connecting citizens with government, and

WHEREAS, the system has had more than 4,048 downloads, 4,751 service requests submitted by 1,630 unique citizens, and

WHEREAS, the 4,048 citizens that downloaded the application have had more than 22,128 sessions using GoModesto!, and

WHEREAS, a new contract is needed with Accela to continue use of the Public Stuff platform, and

WHEREAS, Accela is willing to waive the standard increase for the first year of the new agreement by matching last year's cost of $21,930 in addition to reducing the annual fee increase rate from 7% to 5% for subsequent years, saving the city $3,944 over the life of the agreement.

WHEREAS, on February 28, 2017, Council approved Resolution No. 2017-86 implementing a spending freeze in order to maintain fiscal sustainability of the City, and

WHEREAS, as allowed by this resolution, the City Manager’s Office approved an exception to this freeze for the procurement, and

WHEREAS, justification for this exception is based upon Accela’s Mobile Application, Public Stuff, being the lead application that was identified and selected in RFP No. INF—16-05 and it is time for annual renewal, and
WHEREAS, Accela is the only vendor providing this application.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council hereby approves a three year agreement with Accela, San Ramon, CA for the continued use of their Public Stuff platform for the GoModesto! Mobile Application at a first year cost of $21,930 and a total cost of $71,495.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to sign the new agreement in a form approved by the City Attorney.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH DATA PATH, INC., MODESTO, CA, TO PROVIDE INFORMATION TECHNOLOGY SERVICES TO THE CITY FOR A ONE-YEAR TERM WITH A ONE-YEAR OPTION TO EXTEND THE AGREEMENT AT A COST OF UP TO $75,000 PER YEAR FOR A TOTAL COST NOT TO EXCEED $150,000 AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in February 2015, the City entered into an agreement with Data Path, Inc. to provide Chief Information Officer (CIO) services to the City, and

WHEREAS, in March 2015, the City entered into an agreement with Data Path, Inc. to provide Chief Information Officer (CIO) services to the City, which was approved through Resolution 2015-81, and

WHEREAS, on November 24, 2015, the City and Data Path Inc. entered into a first amendment, which was approved by Council through Resolution 2015-442, to increase the contract amount, update the scope of services, and establish a 6 month term, and

WHEREAS, on May 24, 2016, a second amendment to the agreement was approved through Resolution 2016-206 for Data Path Inc., to continue to provide CIO services to the City for an additional 3 year period, and

WHEREAS, the cost associated with this second amendment was $17,578 per month or approximately $210,000 per year, and

WHEREAS, the current agreement with Data Path requires Mr. Dickey to manage the day-to-day operations of the Information Technology (IT) Department, and

WHEREAS, these routine management duties consume a significant amount of time and prevent him from focusing on other high priority projects which could either
advance the City’s technological presence in the City or assist the City in becoming a data-driven, performance based organization, and

WHEREAS, in order to focus Mr. Dickey’s efforts on areas where the City can realize the largest return of his skill set, staff negotiated a new agreement with Data Path which would allow Mr. Dickey to provide oversight of high priority programs and projects while reducing costs under this contract and shifting management of the IT Department to other resources, and

WHEREAS, the agreement is for a one-year term with a one-year option to extend the agreement, 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. However, there are exceptions to the rule set forth in the Modesto Municipal Code. In accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the formal bid requirement, and

WHEREAS, the cost of this agreement as well as any additional costs incurred for the management of the IT Department will be accounted for within the existing IT budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Data Path, Inc., Modesto, CA, to provide information technology services to the City for a one-year term with a one-year option to extend the agreement at a cost of up to $75,000 per year for a total cost not to exceed $150,000.
BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2017-196

RESOLUTION APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA CLIMATE INVESTMENTS URBAN GREENING PROGRAM FOR FUNDS IN THE AMOUNT OF $3,193,401 TO FUND DEVELOPMENT AND CONSTRUCTION OF VIRGINIA CORRIDOR PHASE 7 PROJECT AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, AS AGENT, TO CONDUCT ALL NEGOTIATIONS AND TO EXECUTE AND SUBMIT ALL DOCUMENTS WHICH MAY BE NECESSARY FOR THE COMPLETION OF THE PROJECT

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above, and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and

WHEREAS, said procedures established by the California Natural Resources Agency require a resolution certifying the approval of application by the Applicants governing board before submission of said application to the State, and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the Project.

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

1. Approves the filing of an application for the development of the Virginia Corridor Phase 7 Project; and

2. Certifies that this Council for the City of Modesto understands the assurances and certification in the application; and
3. Certifies that the City will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; or will secure the resources to do so; and

4. Certifies that it will comply with all provisions of Section 1771.5 of the California State Labor Code; and

5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable permits will have been obtained; and

6. Certifies that the City will work towards the Governor’s State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1; and

7. Appoints the Acting City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, with approval as to form by the City Attorney, which may be necessary for the completion of the aforementioned project.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2017-197

RESOLUTION APPROVING THE SUBMITAL OF A GRANT APPLICATION
TO THE CALIFORNIA CLIMATE INVESTMENTS URBAN GREENING
PROGRAM FOR FUNDS IN THE AMOUNT OF $2,448,931 TO FUND
DEVELOPMENT AND CONSTRUCTION OF THE J STREET GREEN STREET
PROJECT AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS
DESIGNEE, AS AGENT TO CONDUCT ALL NEGOTIATIONS AND TO
EXECUTE AND SUBMIT ALL DOCUMENTS WHICH MAY BE NECESSARY
FOR THE COMPLETION OF THE PROJECT

WHEREAS, the Legislature and Governor of the State of California have
provided funds for the program shown above, and

WHEREAS, the California Natural Resources Agency has been delegated the
responsibility for the administration of this grant program, establishing necessary
procedures, and

WHEREAS, said procedures established by the California Natural Resources
Agency require a resolution certifying the approval of application by the Applicants
governing board before submission of said application to the State, and

WHEREAS, the applicant, if selected, will enter into an agreement with the State
of California to carry out the Project.

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

1. Approves the filing of an application for the development of the J Street Green
   Street Project; and

2.Certifies that the City Council of the City of Modesto understands the assurances
   and certification in the application; and
3. Certifies that the City will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; or will secure the resources to do so; and

4. Certifies that it will comply with all provisions of Section 1771.5 of the California State Labor Code; and

5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable permits will have been obtained; and

6. Certifies that the City will work towards the Governor’s State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1; and

7. Appoints the Acting City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, with approval as to form by the City Attorney, which may be necessary for the completion of the aforementioned project.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who
moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING SUBMISSION OF THE CITY’S TRANSPORTATION DEVELOPMENT ACT (TDA) TRANSIT CLAIM FOR FISCAL YEAR 2017-2018 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) IN THE AMOUNT OF $11,952,619

WHEREAS, the greatest portion of the City’s funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance (STA) funds, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the Finance Department that TDA funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Article 4 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS, the City has prepared its TDA claim for Fiscal Year 2017-2018 pursuant to these sections of the California PUC, and

WHEREAS, the City’s Transit TDA Claim for Fiscal Year 2017-2018 is $11,952,619, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2017-2018 is $19,870,562, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99233.11 of the California PUC before any TDA funding can be released to the City.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the TDA transit claim for Fiscal Year 2017-2018 to StanCOG in the amount of $11,952,619.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

Noes: Councilmembers: None

Absent: Councilmembers: Ridenour

Attest:

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2017-199

RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF A 4,000 GALLON WATER TRUCK TO INTERSTATE TRUCK CENTER, STOCKTON, CA, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR A TOTAL COST OF $181,507

WHEREAS, the purchase of a new 4,000 gallon water truck for the Compost Division of the Public Works Department has been approved to support the compost site permit regulations of continually having a water truck on site to maintain moisture content in the compost and for dust control, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFBs) for new vehicles and heavy equipment through various competitive processes, and

WHEREAS, on January 3, 2017, the Purchasing Division issued RFB 1617-20 for the purchase of a 4,000 gallon water truck on the City’s website under the commodity codes for automotive vehicles, trucks over one ton, and trucks with specialized bodies. Prospective bidders were notified online of the bid opportunity. Eleven companies chose to download the RFB document, and

WHEREAS, on January 24, 2017, bids were formally opened in the City Clerk’s office. Six companies chose to respond. All companies provided responsive and responsible bids. Local vendors capable of providing this type of equipment chose not to respond, and

WHEREAS, based on providing the overall lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a 4,000 gallon water truck to Interstate Truck Center, Stockton CA, for a total estimated cost of $181,507, 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. The award of bid for the purchase of a 4,000 gallon water truck to Interstate Truck Center, Stockton, CA, conforms to the Modesto Municipal Code, 8-3.203, and

WHEREAS, sufficient funds for a 4,000 gallon water truck were budgeted in Fiscal Year 2016-2017 in account 5409-53246-57003.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of a 4,000 gallon water truck to Interstate Truck Center, Stockton, CA.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is authorized to issue a purchase order for a total cost of $181,507.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

(Seal)

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGRE, City Attorney
RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF TWELVE FORD POLICE INTERCEPTOR AWD UTILITY VEHICLES TO ALBANY FORD, ALBANY, CA, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR A TOTAL COST OF $391,546

WHEREAS, the replacement of eleven Police Interceptor AWD utility vehicles for the Police Department have been subjected to a thorough evaluation and all eleven vehicles have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, funds for the purchase of one new Police Interceptor AWD utility vehicle for the Fire Department, Fire Investigation unit, have been budgeted in Fiscal Year 2016-2017 and will enable the Fire Department to remove from service a vehicle that is over ten years old and has accumulated 190,000 miles, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, and

WHEREAS, on February 9, 2017, the Purchasing Division issued RFB 1617-23 for the purchase of twelve Police Interceptor AWD utility vehicles on the City’s website under the commodity codes for automotive vehicles and related transportation equipment, automobiles, and automobile and other passenger vehicles repair and maintenance. Prospective bidders were notified online of the bid opportunity. Six companies chose to download the RFB document, and

WHEREAS, on February 28, 2017, bids were formally opened in the City Clerk’s office. Four companies chose to respond. There was one local vendor capable of
providing this type of equipment and they chose not to bid. All four companies provided responsive and responsible bids, and

WHEREAS, based on providing the overall lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of twelve Ford Police Interceptor AWD utility vehicles to Albany Ford, Albany CA, for a total estimated cost of $391,546, and

WHEREAS, on February 28, 2017, Council approved Resolution No. 2017-86 implementing a spending freeze in order to maintain fiscal sustainability of the City. The City Manager's Office approved an exception to this freeze for this procurement based upon in-service patrol units meeting their maximum mileage threshold of 125,000 miles and an abundance of total vehicle losses due to crashes, 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. The award of bid for the purchase of twelve Ford Police Interceptor AWD utility vehicles to Albany Ford, Albany, CA, conforms to the Modesto Municipal Code, 8-3.203, and

WHEREAS, sufficient funds for eleven replacement Ford Police Interceptor AWD utility vehicles were budgeted in Fiscal Year 2016-2017, in account 5409-53246-57003. Ten of these vehicles will be standard black and white patrol vehicles for the Modesto Police Department at a cost of $30,467 before taxes and fees. One of these vehicles will be the same as the patrol vehicles except for the dark blue paint for the Street Gang Unit of the Modesto Police Department. This unit will cost $30,862 before taxes and fees and will replace a unit totaled in a traffic collision. The final unit is gray in
color and has more administrative features, less patrol features and lighting. This unit will be for the Modesto Fire Department at a cost of $26,965 before taxes and fees. Each vehicle will be charged a CA tire fee of $8.75 and a registration fee of $29. Total sales tax on all vehicles will be $28,547 for a total cost of $391,546. Funding for these vehicles was collected through the internal service fund (ISF) via straight-line depreciation over the life of the vehicle, and

WHEREAS, sufficient funds for one new Ford Police Interceptor AWD utility vehicle for the Fire Department have been budgeted in Fiscal Year 2016-2017, in account 0100-18610-57003.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of twelve Police Interceptor AWD utility vehicles to Albany Ford, Albany, CA,

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is authorized to issue a purchase order for a total cost of $391,546.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who
moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING PAYMENT TO STORER TRANSIT SYSTEMS (STORER) IN THE AMOUNT OF $347,284 FOR FIXED COST ADJUSTMENTS FOR THE FISCAL YEAR 2015/2016 OPERATION OF THE MODESTO AREA DIAL-A-RIDE (MADAR)

WHEREAS, the City entered into an Agreement dated May 13, 2014, with Storer Transit Systems (Storer) to operate Modesto Area Dial-A-Ride (MADAR) for the purpose of providing paratransit service to seniors and qualified disabled persons within the Modesto urban area, and

WHEREAS, Storer is paid on the basis of the number of vehicle service hours its vans operate in service ($69.98 per vehicle service hour in fiscal year 2015/2016) and the Agreement assumes a base number of vehicle service hours of 42,600 for a twelve month period, and

WHEREAS, paragraph 23(G) of the Agreement includes a provision that requires the City to compensate Storer for “significant differences between the number of vehicle service hours actually operated by (Storer) and the base number of vehicle service hours (42,600 hours),” and

WHEREAS, at the end of a twelve month period, the City must determine if there is a difference in vehicle service hours (either positive or negative) between the actual vehicle service hours billed and the base number of vehicle service hours. If the difference between the actual service hours billed and 42,600 is greater than 4,620 (10% of 42,600), then the consideration paid to Storer must be adjusted, and
WHEREAS, for the 2015/2016 fiscal year Storer operated 5,022 billable hours less than the specified 42,600 billable hours despite an actual increase in the number of rides provided by the service, and

WHEREAS, as provided for by the Agreement, the City and Storer agreed upon the amount of fixed expenses Storer incurred during the second year of the Agreement, and

WHEREAS, the difference between the fixed expenses and the amount paid to Storer by the City was $347,284 and

WHEREAS, the definition of “Vehicle Service Hour” included in the May 13, 2014 agreement is significantly different from the definition of that term in previous agreements, and

WHEREAS, the definition is the main reason for the reduction in the number of vehicle service hours billed as compared with previous agreements, despite increases in the actual number of rides provided by the service.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes payment to Storer Transit Systems in the amount of $347,284 for fixed cost adjustments for the fiscal year 2015/2016 operation of Modesto Area Dial-A-Ride.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

(SIGNATURE)

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AMENDMENT NO. 1 TO AN AGREEMENT WITH STORER TRANSIT SYSTEMS (STORER) TO MODIFY THE DEFINITION OF "VEHICLE SERVICE HOUR" (VSH) AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AMENDMENT NO. 1

WHEREAS, the City entered into an Agreement dated May 13, 2014, with Storer Transit Systems (Storer) to operate Modesto Area Dial-A-Ride (MADAR) for the purpose of providing paratransit service to seniors and qualified disabled persons within the Modesto urban area, and

WHEREAS, the definition of "Vehicle Service Hour" included in the May 13, 2014 agreement is significantly different from the definition of that term in previous agreements, and

WHEREAS, the new definition had an unintended restriction of billable time because the phrasing unintentionally excludes time in service in which passengers are not on board the vehicles because individuals fail to board as scheduled or cancel trips after vehicles and drivers are dispatched, and

WHEREAS, the Agreement assumes a base number of vehicle service hours of 42,600 for a twelve month period based on estimates using a prior definition, and Storer is paid on the basis of the number of vehicle service hours its vans operate in service ($69.98 per vehicle service hour in fiscal year 2015/2016), and

WHEREAS, the unintended time exclusions resulted in MADAR not meeting the minimum billable hours despite the CONTRACTOR incurring all expected expenses, and thus requires a fixed cost adjustment payment to the CONTRACTOR following each year of the Agreement, and
WHEREAS, the definition is the main reason for the reduction in the number of vehicle service hours billed as compared with previous agreements despite increases in the actual number of rides provided by the service.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to Modesto Area Dial-A-Ride Operations Agreement and authorizes the Acting City Manager, or his designee to execute Amendment No. 1 in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: 

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH PROVOST & PRITCHARD CONSULTING GROUP, MODESTO, CA, FOR ON-CALL GRANT WRITING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $45,000 PER YEAR, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utilities Department pursues grant funding opportunities for a variety of utility related projects and programs, primarily related to water, wastewater and storm drain collection system infrastructure, groundwater management activities, wastewater treatment plant facilities, recycled water facilities and flood management projects, and

WHEREAS, grant opportunities typically range from $100,000 in planning grants from federal resources to $1 million or more from state programs, such as the Proposition (Prop) 1 Grant Program, and

WHEREAS, recent successful grant applications include $5.1M from Prop 84 Integrated Regional Water Management (IRWM) Implementation Grant for Underground Retention/Cross Connection Removal and the North Valley Regional Recycled Water Program (2016), $147,625 from Prop 1 IRWM Planning Grant for the IRWM Update (2017), and a preliminary award of $943,985 from Prop 1 Groundwater Grant for the Destruction of Wells (2017), and

WHEREAS, successful grant applications require thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and
WHEREAS, since funding mechanisms, grant requirements, and granting authorities may change on a project-by-project basis, Utilities Department staff does not have the expertise, nor the resources due to current workloads, to fully research each funding opportunity presented by the state or federal agencies, and

WHEREAS, the City of Modesto has an agreement with California Consulting to provide grant assistance related to other departments (Police, Parks, Recreation and Neighborhoods, Information Technology, Public Works, and the City Manager’s Office), but not Utilities, and

WHEREAS, therefore, grant researching and writing services from consultants with specific experience in obtaining grants related to utilities, and who are familiar with the agencies that have the utilities-related grant programs are required, and

WHEREAS, Provost & Pritchard Consulting Group has extensive experience in developing successful grant applications, thereby securing grant funding from state and federal funding sources, and

WHEREAS, its assistance will allow the City to apply for a wide variety of grants, which will help fund the City’s local and regional water resource-related projects and programs, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, which is in compliance with State of California Government Code, Sections 4526-4529, staff solicited and formally advertised Requests for Qualifications (RFQs)/Requests for Proposals (RFPs) through Planet Bids for on-call
grant research and writing services for the Utilities Department, which included one qualified local consultant, and

WHEREAS, six Statements of Qualifications/Proposals were received, and

WHEREAS, after careful review of the Statement of Qualifications/Proposals by Utilities Department staff, the local firm of Provost & Pritchard Consulting Group, Modesto, CA was selected as the most qualified firm to provide on-call grant research and writing services, and

WHEREAS, when on-call grant writing services are required on an “as needed” basis, written task orders will be issued to the consultant identifying the scope, cost, and schedule to complete the specific task, and

WHEREAS, on February 28, 2017, by Resolution No. 2017-86, Council approved implementing a spending freeze in order to maintain fiscal sustainability of the City, and

WHEREAS, as allowed by this resolution, the City Manager’s Office approved an exception to this freeze for this procurement, and

WHEREAS, justification for this exception is that the projects were previously approved and adopted as part of the current Fiscal Year 2016-2017 Capital Improvement Program, are needed to provide safe and reliable utilities, and a budget transfer from reserves, to provide the required services, will not be required, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, the three on-call agreements are for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, however, staff proceeded through a RFP process pursuant to Administrative Directive 3.1, and
WHEREAS, staff recommends approval of the agreements for on-call grant research and writing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Provost & Pritchard Consulting Group, Modesto, CA, for On-call Grant Writing Services for various City projects for one year, with two one-year extension options, at the sole discretion of the City, in an amount not to exceed $45,000 per year.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney, and up to two one-year extension options.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH RMC WATER AND ENVIRONMENT, SACRAMENTO, CA, FOR ON-CALL GRANT WRITING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $45,000 PER YEAR, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utilities Department pursues grant funding opportunities for a variety of utility related projects and programs, primarily related to water, wastewater and storm drain collection system infrastructure, groundwater management activities, wastewater treatment plant facilities, recycled water facilities and flood management projects, and

WHEREAS, grant opportunities typically range from $100,000 in planning grants from federal resources to $1 million or more from state programs, such as the Proposition (Prop) 1 Grant Program, and

WHEREAS, recent successful grant applications include $5.1M from Prop 84 Integrated Regional Water Management (IRWM) Implementation Grant for Underground Retention/Cross Connection Removal and the North Valley Regional Recycled Water Program (2016), $147,625 from Prop 1 IRWM Planning Grant for the IRWM Update (2017), and a preliminary award of $943,985 from Prop 1 Groundwater Grant for the Destruction of Wells (2017), and

WHEREAS, successful grant applications require thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and
WHEREAS, since funding mechanisms, grant requirements, and granting authorities may change on a project-by-project basis, Utilities Department staff does not have the expertise, nor the resources due to current workloads, to fully research each funding opportunity presented by the state or federal agencies, and

WHEREAS, the City of Modesto has an agreement with California Consulting to provide grant assistance related to other departments (Police, Parks, Recreation and Neighborhoods, Information Technology, Public Works, and the City Manager’s Office), but not Utilities, and

WHEREAS, therefore, grant researching and writing services from consultants with specific experience in obtaining grants related to utilities, and who are familiar with the agencies that have the utilities-related grant programs are required, and

WHEREAS, RMC Water and Environment has extensive experience in developing successful grant applications, thereby securing grant funding from state and federal funding sources, and

WHEREAS, its assistance will allow the City to apply for a wide variety of grants, which will help fund the City’s local and regional water resource-related projects and programs, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, which is in compliance with State of California Government Code, Sections 4526-4529, staff solicited and formally advertised Requests for Qualifications (RFQs)/Requests for Proposals (RFPs) through Planet Bids for on-call
grant research and writing services for the Utilities Department, which included one qualified local consultant, and

WHEREAS, six Statements of Qualifications/Proposals were received, and

WHEREAS, after careful review of the Statement of Qualifications/Proposals by Utilities Department staff, the firm of RMC Water and Environment, Sacramento, CA was selected as the most qualified firm to provide on-call grant research and writing services, and

WHEREAS, when on-call grant writing services are required on an “as needed” basis, written task orders will be issued to the consultant identifying the scope, cost, and schedule to complete the specific task, and

WHEREAS, on February 28, 2017, by Resolution No. 2017-86, Council approved implementing a spending freeze in order to maintain fiscal sustainability of the City, and

WHEREAS, as allowed by this resolution, the City Manager’s Office approved an exception to this freeze for this procurement, and

WHEREAS, justification for this exception is that the projects were previously approved and adopted as part of the current Fiscal Year 2016-2017 Capital Improvement Program, are needed to provide safe and reliable utilities, and a budget transfer from reserves, to provide the required services, will not be required, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, the three on-call agreements are for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, however, staff proceeded through a RFP process pursuant to Administrative Directive 3.1, and
WHEREAS, staff recommends approval of the agreements for on-call grant research and writing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with RMC Water and Environment, Sacramento, CA, for On-call Grant Writing Services for various City projects for one year, with two one-year extension options, at the sole discretion of the City, in an amount not to exceed $45,000 per year.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney, and up to two one-year extension options.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who
moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2017-205

RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC., DAVIS, CA, FOR ON-CALL GRANT WRITING SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $45,000 PER YEAR, AND AUTHORIZING THE ACTING CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utilities Department pursues grant funding opportunities for a variety of utility related projects and programs, primarily related to water, wastewater and storm drain collection system infrastructure, groundwater management activities, wastewater treatment plant facilities, recycled water facilities and flood management projects, and

WHEREAS, grant opportunities typically range from $100,000 in planning grants from federal resources to $1 million or more from state programs, such as the Proposition (Prop) 1 Grant Program, and

WHEREAS, recent successful grant applications include $5.1M from Prop 84 Integrated Regional Water Management (IRWM) Implementation Grant for Underground Retention/Cross Connection Removal and the North Valley Regional Recycled Water Program (2016), $147,625 from Prop 1 IRWM Planning Grant for the IRWM Update (2017), and a preliminary award of $943,985 from Prop 1 Groundwater Grant for the Destruction of Wells (2017), and

WHEREAS, successful grant applications require thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and
WHEREAS, since funding mechanisms, grant requirements, and granting authorities may change on a project-by-project basis, Utilities Department staff does not have the expertise, nor the resources due to current workloads, to fully research each funding opportunity presented by the state or federal agencies, and

WHEREAS, the City of Modesto has an agreement with California Consulting to provide grant assistance related to other departments (Police, Parks, Recreation and Neighborhoods, Information Technology, Public Works, and the City Manager’s Office), but not Utilities, and

WHEREAS, therefore, grant researching and writing services from consultants with specific experience in obtaining grants related to utilities, and who are familiar with the agencies that have the utilities-related grant programs are required, and

WHEREAS, West Yost Associates, Inc. has extensive experience in developing successful grant applications, thereby securing grant funding from state and federal funding sources, and

WHEREAS, its assistance will allow the City to apply for a wide variety of grants, which will help fund the City’s local and regional water resource-related projects and programs, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, which is in compliance with State of California Government Code, Sections 4526-4529, staff solicited and formally advertised Requests for Qualifications (RFQs)/Requests for Proposals (RFPs) through Planet Bids for on-call
grant research and writing services for the Utilities Department, which included one qualified local consultant, and

WHEREAS, six Statements of Qualifications/Proposals were received, and

WHEREAS, after careful review of the Statement of Qualifications/Proposals by Utilities Department staff, the firm of West Yost Associates, Inc., Davis, CA was selected as the most qualified firm to provide on-call grant research and writing services, and

WHEREAS, when on-call grant writing services are required on an “as needed” basis, written task orders will be issued to the consultant identifying the scope, cost, and schedule to complete the specific task, and

WHEREAS, on February 28, 2017, by Resolution No. 2017-86, Council approved implementing a spending freeze in order to maintain fiscal sustainability of the City, and

WHEREAS, as allowed by this resolution, the City Manager’s Office approved an exception to this freeze for this procurement, and

WHEREAS, justification for this exception is that the projects were previously approved and adopted as part of the current Fiscal Year 2016-2017 Capital Improvement Program, are needed to provide safe and reliable utilities, and a budget transfer from reserves, to provide the required services, will not be required, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, the three on-call agreements are for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, however, staff proceeded through a RFP process pursuant to Administrative Directive 3.1, and
WHEREAS, staff recommends approval of the agreements for on-call grant
research and writing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves an Agreement with West Yost Associates, Inc., Davis, CA, for
On-call Grant Writing Services for various City projects for one year, with two one-year
extension options, at the sole discretion of the City, in an amount not to exceed $45,000
per year.

BE IT FURTHER RESOLVED that the Acting City Manager, or his designee, is
hereby authorized to execute the agreement in a form approved by the City Attorney, and
up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of May, 2017, by Councilmember Kenoyer, who
moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki,
        Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING OUTDOOR WATER USE REGULATIONS FOR JUNE THROUGH OCTOBER 2017 FOR WATER CUSTOMERS SERVED BY THE MODESTO SUB-BASIN GROUNDWATER SUPPLY OR SURFACE WATER

WHEREAS, on April 7, 2017, the Governor issued Executive Order (EO) B-40-17, directing the State Water Board to rescind portions of its existing emergency regulations that require a water supply stress test or mandatory conservation standard for urban water agencies, and

WHEREAS, the EO B-40-17 also directs the State Water Board to continue: development of permanent prohibitions on wasteful water use, permanent requirements for reporting water use by urban water agencies, portions of the emergency regulations that prohibit certain wasteful water practices and requiring water use reporting as a bridge until permanent requirements are in place, and

WHEREAS, on April 7, 2017, in accordance with directives in EO B-37-16, the State Water Board Department of Water Resources, Department of Food and Agriculture, California Public Utilities Commission, and the California Energy Commission, released a final report titled “Making Water Conservation a California Way of Life”. The report describes a proposed framework for developing new water use efficiency standards, urban water use targets, and enhanced urban and agricultural water management planning requirements, and

WHEREAS, the state-mandated conservation standards, developed by the State Water Board, are no longer necessary under current conditions, as determined by the Governor in EO B-40-17, and
WHEREAS, continued prohibition of wasteful and/or unreasonable water use practices and continued availability of transparent water use data are, however, prudent to address water supply needs and the lingering impacts of prolonged drought, and to provide a bridge to permanent regulations for making water conservation a California way of life as identified in EO B-37-16 and EO B-40-17, and

WHEREAS, because of the significant cumulative reduction of water use the past two years (27%), annual water use has dropped to approximately 45,000 acre feet.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the outdoor water use regulations for June through October 2017 for water customers served by the Modesto sub-basin groundwater supply or surface water:

- Odd-numbered addresses may water Wednesdays, Fridays, Sundays
- Even-numbered addresses may water Tuesdays, Thursdays, Saturdays
- No outdoor lawn watering on Mondays

Penalties for Violations of Water Usage Restrictions will be:

- Educational pamphlet provided upon 1st violation
- $150 Administrative Fee assessed upon 2nd violation
- $250 Administrative Fee assessed upon 3rd violation
- $500 Administrative Fee assessed for each subsequent violation
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2017, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ridenour

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney