RESOLUTION SUPPORTING THE DESIGNATION OF STATE HIGHWAY 132 AS THE JOHN MUIR HIGHWAY

WHEREAS, the route taken in 1868 by famed naturalist John Muir on his first visit to Yosemite was parallel to today's existing county-maintained J-132 route above historic Coulterville, and

WHEREAS, the Mariposa County Board of Supervisors and John Muir historians have secured for the J-132 segment the designation of the John Muir Highway, and

WHEREAS, the John Muir Geotourism Center, the nation's first geotourism center, which is headquartered in Coulterville, is seeking an extension of the John Muir Highway designation to the full length of the State Route 132 corridor from its western connections with I-5 and I-580 to Coulterville, and

WHEREAS, this designation is intended to memorialize the traditions and accomplishments of John Muir but also to provide a marketing brand for Route 132, which is under-appreciated as an alternate scenic route to Yosemite National Park, and that with creative marketing could become a popular travel option for tourists from northern California and beyond, and.

WHEREAS, tourism is known to be a vital source of income, especially for jurisdictions that work cooperatively within a regional framework that connects areas of common values and sites of interest, and

WHEREAS, the John Muir Geotourism Center is also seeking relationships with jurisdictions and institutions in the San Joaquin River Valley, as well as the Sierra
Nevada mountains, and has expressed support for the efforts of the City of Waterford to enhance its recreational assets with extension of its nature paths.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it endorses the efforts of the John Muir Geotourism Center to create a tourism development program for Highway 132 beginning with branding of the route as the John Muir Highway, and

BE IT FURTHER RESOLVED THAT THE CITY COUNCIL encourages representatives of the John Muir Geotourism Center and the City of Modesto jointly examine means to increase tourism and recreational opportunities along SR 132 and in Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-363

A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH 4LEAF INC., BUREAU VERITAS, AND CSG CONSULTANTS INC., FOR PLAN REVIEW AND INSPECTION SERVICES TO INCREASE ANNUAL COMPENSATION FOR EACH CONTRACT BY $20,000, THE AMENDED CONTRACT AMOUNT SHALL NOT TO EXCEED $50,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO THE AGREEMENTS

WHEREAS, on May 7, 2012, the Building Safety Division issued an RFP for Plan Check and Inspection Services, posted the RFP on the City’s website and formally advertised it as required by law, and

WHEREAS, seven (7) companies responded, including two (2) local vendors. All seven (7) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of one (1) City staff member and three (3) technical experts outside the City evaluated and ranked the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal and contracts for professional assistance with plan review and inspection services to 4LEAF Inc., Bureau Veritas, CSG Consultants Inc., and Interwest Consulting Group for an estimated annual cost of $30,000, and a total cost not to exceed $90,000, 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, and
WHEREAS, the award of proposal and contracts for professional assistance with plan review and inspection services to 4LEAF Inc., Bureau Veritas, CSG Consultants Inc., and Interwest Consulting Group conforms to the Modesto Municipal Code,

WHEREAS, on December 4, 2012, by Resolution No. 2012-486, the City Council ("CITY") authorized a Standard Agreement for Consultant Services ("AGREEMENT") with 4LEAF Inc., Bureau Veritas, CSG Consultants Inc., and Interwest Consulting Group ("CONSULTANT") to provide professional services to the Building Safety Division of the Community and Economic Development Department, and,

WHEREAS, the Agreement limited the annual expenditures to $30,000 per year for plan review and building inspection services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the Standard Agreement for Consultant Services with 4LEAF Inc., Bureau Veritas, and CSG Consultants Inc., Plan Review and Inspection Services to increase annual compensation for each contract by $20,000, the amended contract amount shall not exceed $50,000, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the First Amendment to the Standard Agreement for Consultant Services with 4LEAF Inc., Bureau Veritas, and CSG Consultants Inc., as recommended.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

BY: 

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-364

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE
STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH
INTERWEST CONSULTING GROUP FOR CHIEF BUILDING OFFICIAL AND
CODE ENFORCEMENT SERVICES IN AN AMOUNT NOT TO EXCEED
$200,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT

WHEREAS, on December 4, 2012, by Resolution No. 2012-486, the City
Council ("CITY") authorized a Standard Agreement for Consultant Services
("AGREEMENT") with Interwest Consulting ("CONSULTANT") to provide
professional services to the Building Safety Division of the Community and Economic
Development Department, and,

WHEREAS, in October 2013, staff was unsuccessful in recruiting a Chief
Building Official, and

WHEREAS, in May 2014, the department issued a Request for Qualifications for
Chief Building Official and Code Enforcement services ("SERVICES") to the four
companies contracted to provide professional services to the Building Safety Division,
and

WHEREAS, CONSULTANT’S proposal was reviewed, ranked, and selected to
provide the Services, and

WHEREAS, on August 19, 2014, the First Amendment to the Agreement
expanded the scope of work to include the additional services, and

WHEREAS, the Agreement and First Amendment limited the annual
expenditures to $30,000 per year for plan review and building inspection services, and

WHEREAS, the anticipated cost of the additional services was $150,000 per year,
increasing the total annual expenditures not to exceed $180,000 per year, and
WHEREAS, on September 23, 2014, the Second Amendment to the Agreement approved the increased compensation not to exceed $180,000, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to the Standard Agreement for Consultant Services with Interwest Consulting, for a total cost not to exceed $200,000 per year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Third Amendment to the Standard Agreement for Consultant Services with Interwest Consulting as recommended.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

APPROVED AS TO FORM:

BY: 
ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2014-2015 AND FISCAL YEAR 2015-2016 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS

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 2014-2015 and Fiscal Year 2015-2016,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2014-2015 and Fiscal Year 2015-2016 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 Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October 2015, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT A

FISCAL YEAR 2014-15

COMMUNITY & ECONOMIC DEVELOPMENT
A budget adjustment is necessary to increase the budgeted transfer in FY 2014-15 by $649,211. The increase in the transfer is to account for the negative cash balance that has accrued in the fund since FY 2013-14. This amount was a result of a deficit in operating revenues to operating expenses in previous fiscal years prior to FY 2014-15. This adjustment is required of the General Fund as it provides an annual subsidy to the Golf Fund to cover any shortage in the operations as well as assistance with covering the annual debt service payment made by the Golf Fund. This adjustment will increase the FY 2014-15 transfer from the General Fund to the Golf Fund by $649,211.

A budget adjustment is necessary to increase the budgeted transfer in FY 2014-15 by $425,015. The increase in the transfer is to account for the negative cash balance that has been created in FY 2014-15. This was a result of the budget for Centre Plaza being adopted to only fund the operations of the program for half of the fiscal year in hopes of the management being taken over by another business entity. This did not come to fruition in FY 2014-15 thus resulting in the higher operating expenses compared to the revenues and the budgeted General Fund subsidy of $217,143. This adjustment will increase the FY 2014-15 transfer from the General Fund to the Centre Plaza Fund by $425,015 increase the total budgeted transfer to $642,158.

PUBLIC WORKS
A budget adjustment in the amount of $1,204,040 is necessary in the Surface Transportation Fund, Fund 1700, to true-up the FY 2014-15 transfers into Fund 1700 from its sub-funds; Fund 1720, Fund 1730 and Fund 1740 to reflect the FY 2014-15 actual expense.

FISCAL YEAR 2015-16

COMMUNITY & ECONOMIC DEVELOPMENT
A budget adjustment is necessary to recognize $330,000 in unbudgeted revenue from the Department of Transportation for Capital Improvement Project #100721, Expand ATMS/CCTV Briggs and establish the construction expense budget.

POLICE
A budget adjustment is necessary in the Operation Block Grants Fund MPD to recognize $221,389 in unbudgeted revenue from the State Law Enforcement Supplemental Funds (SLESF) for Capital Improvement Project #100831, 2014-15 SLESF, and reallocate to project discretionary expense accounts where expenditures are anticipated to be incurred.

A budget adjustment is necessary in the Operation Grants Reimbursed Fund MPD to recognize $81,944 in unbudgeted revenue from the San Joaquin Valley Air Pollution Control for Capital Improvement Project #100895, Alt. Fuel Vehicle Purchase, and allocate to project discretionary expense accounts where expenditures are anticipated to be incurred.
A budget adjustment is necessary to establish a new non-capital project for the Organized Crime Drug Enforcement Task Force (OCDETF) Operations in the amount of $45,000 in Project 100907 (2016 OCDETF OPS PA-CAE-415). This budget adjustment will establish both the revenue and expense budgets for this project with $35,000 funding overtime expenses and $10,000 funding tools and supplies authorized for reimbursement per this agreement with the United States Department of Justice.

A budget adjustment is necessary to establish a new non-capital project for the Organized Crime Drug Enforcement Task Force (OCDETF) Operations in the amount of $40,000 in Project 100908 (2016 OCDETF OPS PA-CAE-408). This budget adjustment will establish both the revenue and expense budgets for this project with $25,000 funding overtime expenses and $15,000 funding tools and supplies authorized for reimbursement per this agreement with the United States Department of Justice.

A budget adjustment is necessary to increase the Police Department operating expense budget in FY 2015-16 by appropriating $1,455,316 from General Fund reserves for the purchase of police radios. The Modesto Police Department is a regional partner in the P-25 Radio Interoperability project that will transition county-wide radios from analog to digital radio signals. The installation of the P-25 radio towers is underway within the City of Modesto and the Police Department anticipates beginning its migration to the new system as early as the spring of 2016. The new P-25 interoperability standard allows for increased safety for officers in mutual aid and disaster situations and replaces an antiquated analog system. The current vehicle mounted mobile radios and officer carried portable radios are not P-25 / 800 megahertz compatible, thus requiring an agency-wide replacement. Many of the radios currently carried by Modesto PD officers are nearly 20 years old and have exceeded the manufacturer's overall service life. This budget adjustment will allow for the purchase of police radios to be made by increasing the budget in the account 52038 (Public Safety Equipment) by $1,455,316 in Cost Center 19320 (MPD – Field Operations).
RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN STANISLAUS COUNTY AND THE CITY OF MODESTO TO PROVIDE COUNTY-WIDE FIRE INVESTIGATION SERVICES, AND APPROVING AN AMENDMENT TO THE BUDGET FOR THE FY 2015-2016 OPERATING BUDGET TO REFLECT THE CHANGES TO THE MEMORANDUM OF UNDERSTANDING FOR FIRE INVESTIGATION SERVICES AS OUTLINED IN EXHIBIT A AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in the past, the City of Modesto Fire Department has received compensation for providing investigation services for Stanislaus County. Under this new MOU, that compensation will terminate reducing the expected revenue from $331,058 to $82,500 for the current fiscal year; and

WHEREAS, the associated costs of the Fire Investigations Unit will also be reduced as the Unit will be reduced from three investigators to two, reducing the salary and benefits expenditure from $388,262 to $287,533; and

WHEREAS, while the Modesto Fire Department Fire Investigation Unit will reduce staffing, the new model includes an investigator from Ceres Fire Department and Stanislaus Consolidated Fire Protection District and support from the District Attorney’s Office. This new model is more efficient and addresses the changing national standards related to investigations and qualifications; and

WHEREAS, this MOU authorizes the City of Modesto Fire Department to participate in a county wide fire investigation task force; and

WHEREAS, the Modesto Fire Department, Stanislaus County District Attorney’s Office, Stanislaus Consolidated Fire Protection District and the Ceres Fire Department have developed a new regional fire investigation model; and
WHEREAS, this model will improve fire investigation services for the City of Modesto and fire departments within Stanislaus County by increasing the total number of fire investigators and include a full time law enforcement position to assist the investigators. The new Fire Investigation Task Force will include (4) fire investigators, the City of Modesto Fire Department will contribute (2) fire investigators, while other participating departments will contribute another (2) fire investigators. The District Attorney’s Office will contribute (1) full time investigator and will provide an additional “shared time” supervisor for the task force, and

WHEREAS, under the previous Fire Investigation program Modesto Fire Department provided county wide investigation service with (3) fire investigators and no full time law enforcement presence, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding between Stanislaus County and the City of Modesto to provide County-wide fire investigation services, and approves an amendment to the budget for the FY 2015-2016 Operating Budget to reflect the changes to the Memorandum of Understanding for fire investigation services as outlined in Exhibit A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A

Reduce the salary and benefits expense budget for FY 15-16 to reflect reducing the number of fire investigators from three to two – one investigator will return to an Engineer vacancy in Suppression. Reduce the revenue budget to reflect the elimination of funding for fire investigations from Stanislaus County. Both actions are a result of the new agreement for countywide fire investigations.

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RESOLUTION APPROVING CONSTRUCTION MANAGEMENT AGREEMENTS WITH KIMLEY-HORN & ASSOCIATES (KHA) FOR FEDERAL AVIATION ADMINISTRATION (FAA) GRANT PROJECT 03-06-0153-039-2015 (AIP 39), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, the City has approved Airport Capital Improvement Plan (ACIP) projects at the Modesto City-County Airport, and

WHEREAS, the City has accepted an FAA Grant Offer, AIP 39, to complete Airport Capital Improvement projects at the Modesto City-County Airport, and

WHEREAS, skilled airport construction management and inspection assistance will be required to move forward with those projects, and

WHEREAS, on April 14, 2015, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction management and inspection for five (5) years, and

WHEREAS, KHA was selected to provide design, planning, inspection and construction management services for various Airport Capital Improvement Projects at the Modesto City-County Airport for five (5) years.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Agreements with Kimley-Horn & Associates, Inc. to provide construction management and planning services for Airport Capital Improvement Projects in an amount not to exceed $46,441 for Fencing Project and $262,078 for Runway 10L-28R Rehab and West Apron Reconstruction Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreements.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-368

RESOLUTION AUTHORIZING FINANCE TO CREATE TWO NEW AIRPORT CAPITAL PROJECTS FOR THE FEDERAL AVIATION ADMINISTRATION (FAA) GRANT 03-06-0153-039-2015 (AIP 39) AND AMENDING THE FY 2015-2016 CAPITAL IMPROVEMENT BUDGET TO ESTABLISH BUDGETS IN TWO NEW PROJECTS #100904 (PERIMETER FENCING) AND #100905 (REHAB RUNWAY/WEST APRON) NOT TO EXCEED $750,114 AND $3,126,640 RESPECTIVELY

WHEREAS, the City has approved Airport Capital Improvement Plan (ACIP) projects at the Modesto City-County Airport, and

WHEREAS, the City has accepted an FAA Grant Offer, AIP 39, to complete Airport Capital Improvement projects at the Modesto City-County Airport, and

WHEREAS, contractors have been selected and award of bid has been determined for both the Fence Project and the Runway 10L-28R Rehab and West Apron Reconstruction, and

WHEREAS, a consultant has been selected and has an agreement with the City to perform Construction Management for both the Fence Project and the Runway 10L-28R Rehab and West Apron Reconstruction, and

WHEREAS, certain City administration will be entitled to reimbursement for work performed directly in connection with AIP 39.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the creation of two projects and a budget amendment for AIP 39 not to exceed $750,114 for the Perimeter Fencing project and $3,126,640 for the Runway 10L-28R Rehab and West Apron Reconstruction project.
BE IT FURTHER RESOLVED that the City Finance Director, or her designee, is hereby authorized to do the budget adjustment and create appropriate revenue and expense accounts for project #100904 and #100905 (AIP 39).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH SWCA, ENVIRONMENTAL CONSULTANTS, INC. OF HALF MOON BAY FOR ENVIRONMENTAL SERVICES IN AN AMOUNT NOT TO EXCEED $74,130 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the purpose of this project is to improve traffic flow at the intersection of 14th and D Street by widening and improving the geometrics of 14th Street/D Street/Yosemite Boulevard to current State of California Department of Transportation Standards, and

WHEREAS, Caltrans is requiring that the City complete a Historical Preservation Survey Report (HPSR), Archaeological Survey Report (ASR), Phase I Site Assessment and Phase II Site Assessment, and

WHEREAS, in order to meet environmental deadlines, the required reports must be submitted to Caltrans for approval, and

WHEREAS, the City needs additional assistance with completing the required reports, and

WHEREAS, in accordance with Chapter 10 “Consultant Selection” of the Local Assistance Procedures Manual which allows for a One-Step Request for Proposal (RFP), and

WHEREAS, a qualified list of on-call environmental service providers to prepare environmental impact reports and perform other related environmental services was approved by council by Resolution No. 2014-33, and

WHEREAS, the qualified list consists of ten firms who were sent RFP’s for the required environmental services, and
WHEREAS, the City received one proposal, and

WHEREAS, staff reviewed the proposal and cost and deemed SWCA Environmental Consultants, of Half Moon Bay, California, qualified to perform the required Environmental Services, and

WHEREAS, staff recommends an agreement with SWCA Environmental Consultants, as the City does not have the staffing level or resources to perform the environmental services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with SWCA Environmental Consultants, of Half Moon Bay, California for Environmental Services for an amount not to exceed $74,130 for the identified scope of services.

BE IF FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

[Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

[Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2015-16 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN THE AMOUNT OF $170,000

WHEREAS, the purpose of the CML 5059 (199) State Route 132 (14th Street – D Street) Intersection Improvement is to enhance and improve the 14th Street / D Street Intersection geometrics to current State of California, Department of Transportation Standards, and

WHEREAS, on December 11, 2012, City Council, by Resolution No. 2012-508 amended the Fiscal Year 2012-2013 Capital Improvement Program (CIP) budget in the amount of $178,831 for the CML 5059 (199) State Route 132 (14th Street – D Street) Intersection Improvement project, and

WHEREAS, on December 23, 2014 staff submitted a request to Caltrans requesting the reallocation of $170,000 from the Right of Way (ROW)/Utility (UE) future phase of the project to the Preliminary Engineering (PE) phase of the project, and

WHEREAS, on January 27, 2015, California Department of Transportation authorized the re-allocation of $170,000 from the Right of Way (ROW)/Utility (UE) future phase of the project to the PE phase of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2015-16 Capital Improvement Program (CIP) budget in the amount of $170,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS IN THE AMOUNT OF $170,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT FUNDING DOCUMENTS

WHEREAS, the purpose of the CML 5059 (199) State Route 132 (14th Street – D Street) Intersection Improvement is to enhance and improve the 14th Street / D Street Intersection geometrics to current State of California, Department of Transportation Standards, and

WHEREAS, on December 11, 2012, City Council, by Resolution No. 2012-509 accepted Congestion Mitigation and Air Quality (CMAQ) funds for Preliminary Engineering in the amount of $178,831 for the CML 5059 (199) State Route 132 (14th Street – D Street) Intersection Improvement project, and

WHEREAS, on March 6, 2014, the City of Modesto submitted the Preliminary Environmental Study (PES) to Caltrans in order to obtain environmental clearance, and

WHEREAS, the PES review completed by Caltrans District 10 environmental staff on July 22, 2014 indicated several studies to be completed by the City which in the past have not been required, completed by Caltrans or requested for a project of this nature, and

WHEREAS, the studies include a Historical Preservation Survey Report (HPSR), Archaeological Report (ASR), Phase I & II Site Assessments, and

WHEREAS, Requests for Proposals (RFP’s) to retain qualified consultants for the additional studies were sent out and received by staff, and
WHEREAS, staff does not have the qualified professionals or resources to perform the required studies, and

WHEREAS, proposals received by potential consultants for the completion of the HPSR, ASR and Site Assessments resulted in a combined fee of $74,130, and

WHEREAS, the total combined consultant fees would exceed the current PE budget, and

WHEREAS, the Preliminary Engineering (PE) budget was not established with the intent of hiring the qualified professionals needed to complete the unanticipated requested studies, and

WHEREAS, on December 23, 2014 staff submitted a request to Caltrans requesting the reallocation of $170,000 from the Right of Way (ROW)/Utility (UE) future phase of the project to the PE phase of the project, and

WHEREAS, on January 27, 2015, California Department of Transportation authorized the re-allocation of $170,000 from the Right of Way (ROW)/Utility (UE) future phase of the project to the PE phase of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts Congestion Mitigation Air Quality (CMAQ) funds in the amount of $170,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

SEAL

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-372

RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM PROJECT AND ACCEPTING CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS IN THE AMOUNT OF $199,193, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT FUNDING DOCUMENTS

WHEREAS, the purpose of the CML 5059 (214) Right Turn Lane Eastbound Standiford Avenue to Southbound Sisk Road is to provide a City Standard right turn lane and traffic signal modification that will assist in accommodating vehicles turning right rather than the current shared right turn and through lane, and

WHEREAS, on June 18, 2014, staff submitted a Congestion Mitigation and Air Quality (CMAQ) funding application to the Stanislaus Council of Governments (StanCOG) for federal fiscal year (FFY) 2016-2017 & 2017-2018, and

WHEREAS, on March 13, 2015, StanCOG approved the application and allocated $225,000 and $900,000 for FFY’s 2016-2017 & 2017-2018, and

WHEREAS, at StanCOG’s request, Administrative Amendment #7 was approved on May 27, 2015 that advanced $225,000 from FFY 2016-2017 to FFY 2014-2015, and

WHEREAS, advancing the funding to FFY 2014-2015, the City assisted StanCOG with balancing their programming for the region, and

WHEREAS, of the $900,000 allocated for FFY 2017-2018, $175,000 was re-allocated to FFY 2016-2017, and

WHEREAS, on June 10, 2015, staff submitted a Request for Authorization to Proceed with Preliminary Engineering application package to Caltrans, and
WHEREAS, on June 22, 2015, Caltrans issued an “Authorization to Proceed” (E76) for City staff to move forward with Preliminary Engineering in the amount of $199,193 with local match funding of $25,807 for a total of $225,000, and

WHEREAS, Caltrans assigned the project federal number CML 5059 (214), and

WHEREAS, staff will perform eligible Preliminary Engineering work that will include environmental studies, preliminary right of way research, utility conflict research, construction plans, specifications, preliminary construction cost estimates and other related work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts Congestion Mitigation and Air Quality (CMAQ) funds in the amount of $199,193 and amend the Fiscal Year 2015-2016 CIP budget in the amount of $225,000 in order to begin the Preliminary Engineering phase of work.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL  
RESOLUTION NO. 2015-373  

RESOLUTION AMENDING THE FISCAL YEAR 2015-16 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET ACCOUNT NO. 100900 FOR THE CML 5059 (214) RIGHT TURN LANE EASTBOUND STANDIFORD AVENUE TO SOUTHBOUND SISK ROAD PROJECT IN THE AMOUNT OF $225,000  

WHEREAS, the City is in receipt of federal funding in the amount of $225,000 for CML 5059 (214) Right Turn Lane Eastbound Standiford Avenue to Southbound Sisk Road, and  

WHEREAS, funding is an advance from federal fiscal year (FFY) 2016-2017 to FFY 2014-2015, and  

WHEREAS, the advancement requires an administrative amendment from StanCOG, and  

WHEREAS, the administrative amendment was approved on May 27, 2015 that allowed the allocated $225,000 for FFY 2016-2017 be advanced to FFY 2015-16, and  

WHEREAS, advancing the funding to FFY 2014-2015, the City assisted StanCOG with balancing their programming for the region, and  

WHEREAS, on June 22, 2015, California Department of Transportation authorized Preliminary Engineering finding in the amount of $225,000.  

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2015-16 Capital Improvement Project Program budget to modify and add Capital Improvement Program funding in the amount of $225,000.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION TERMINATING AN AGREEMENT WITH LIONAKIS FOR DESIGN SERVICES FOR THE FLEET MAINTENANCE FACILITY PROJECT IN AN AMOUNT OF $374,187 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TERMINATE THE AGREEMENT

WHEREAS, this project will provide for a new Fleet Maintenance Facility located at 1609 8th Street at the City’s Corporation Yard. The new facility will incorporate all of the City’s work trucks, equipment and vehicle maintenance activities, and

WHEREAS, the City’s current Fleet Maintenance Facility located at 911 G Street is one of the properties anticipated to be occupied by the future Superior Courthouse of Stanislaus County, and

WHEREAS, on December 10, 2013, by Resolution No. 2013-455, the City Council approved an agreement with Lionakis for preparation of a Preliminary Design Report (PDR) for the Fleet Maintenance Facility, and

WHEREAS, on January 10, 2014, City staff started design coordination meetings led by Lionakis. As a result of that meeting and subsequent meetings, it was determined that as proposed the new facility would not have adequate space to allow the City to perform the essential day-to-day maintenance functions for a City of its size, and

WHEREAS, a Preliminary Design Report created by Lionakis determined that a building approximately 27,652 square feet in size was required to perform all of the required maintenance tasks by City maintenance staff, and

WHEREAS, the City explored the idea of servicing compressed natural gas (CNG) vehicles within the Fleet Maintenance Facility, and
WHEREAS, Lionakis provided a cost estimate to revise the design to reflect CNG improvements, but due to the budget concerns at the time, the idea was not pursued, and

WHEREAS, as a part of the PDR, Lionakis provided a detailed cost estimate for the construction of the new Fleet Maintenance Facility, and

WHEREAS, preliminary building cost at the time of 30% design was estimated from Lionakis at $7,665,340, and

WHEREAS, total construction costs including construction, construction administration, contingency, consultant design support during construction and consultant design were estimated at $10,328,078, and

WHEREAS, the consultant’s estimate was based on the completed 30% design package, it was not anticipated to be revised significantly downward if and when the project moved forward into final design, and

WHEREAS, staff realized that there was a revenue shortfall and unless the project could be downsized; the construction of the project would have to be delayed until it can be fully funded, and

WHEREAS, staff analyzed possible ways to downsize the 30% design through cost cutting measures, and

WHEREAS, phasing the project was explored along with deferring several aspects of the project resulted in a decreased building size of approximately 24,500 square feet and an estimated building cost of $5,908,803, and

WHEREAS, the total project cost decreased from approximately $10,328,078 to $7,720,387, and
WHEREAS, the City currently has approximately $4,938,230 in funds remaining available for the project, creating a funding shortfall, and

WHEREAS, staff desires to complete the construction plans, specifications and cost estimates with Lionakis and have the project be shovel ready. To meet budget, staff will continue to pursue possible revenue sources, and

WHEREAS, per Modesto Municipal Code Section 8-3.204 and discussions with the City Attorney’s Office, staff feels it’s in the best interest to terminate the current contract with Lionakis and begin a new contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby terminates an agreement with Lionakis for Design Services for the Fleet Maintenance Facility in an amount of $374,187.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to terminate the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING A NEW AGREEMENT WITH LIONAKIS FOR DESIGN SERVICES FOR THE FLEET MAINTENANCE FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED $311,935, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, this project will provide for a new Fleet Maintenance Facility located at 1609 8th Street at the City’s Corporation Yard. The new facility will incorporate all of the City’s work trucks, equipment and vehicle maintenance activities, and

WHEREAS, the City’s current Fleet Maintenance Facility located at 911 G Street is one of the properties anticipated to be occupied by the future Superior Courthouse of Stanislaus County, and

WHEREAS, on December 10, 2013, Council approved an agreement with Lionakis for Design Services and a Preliminary Design Report (PDR) by Resolution Number 2013-455 for an amount not to exceed $340,170, and

WHEREAS, on January 10, 2014, City staff started design coordination meetings led by Lionakis. As a result of that meeting and subsequent meetings, it was determined the City did not have adequate space to perform the essential day to day maintenance functions for a City of its size, and

WHEREAS, a Preliminary Design Report created by Lionakis determined that a building approximately 27,652 square feet in size was required to perform all of the required maintenance tasks by City maintenance staff, and

WHEREAS, the City explored the idea of servicing compressed natural gas (CNG) vehicles within the Fleet Maintenance Facility, and
WHEREAS, Lionakis provided a cost estimate to revise the design to reflect CNG improvements but due to the budget concerns at the time, the idea was not pursued, and

WHEREAS, as a part of the PDR, Lionakis provided a detailed cost estimate for the construction of the new Fleet Maintenance Facility, and

WHEREAS, preliminary building cost at the time of 30% design was estimated from Lionakis at $7,665,340, and

WHEREAS, total construction costs including construction, construction administration, contingency, consultant design support during construction and consultant design were estimated at $10,328,078, and

WHEREAS, the consultant's estimate was based on the completed 30% design package, it was not anticipated to be revised significantly downward if and when the project moved forward into final design, and

WHEREAS, staff realized that there was a revenue shortfall and unless the project could be downsized; the construction of the project would have to be delayed until it can be fully funded, and

WHEREAS, staff analyzed possible ways to downsize the 30% design through cost cutting measures, and

WHEREAS, phasing the project was explored along with deferring several aspects of the project, which resulted in a decreased building size of approximately 24,500 square feet and an estimated building cost of $5,908,803, and

WHEREAS, the total project cost decreased from approximately $10,328,078 to $7,720,387, and
WHEREAS, the City currently has approximately $4,938,230 in funds remaining available for the project, creating a funding shortfall, and

WHEREAS, Staff desires to complete the construction plans, specifications and cost estimates with Lionakis and have the project be shovel ready. To meet budget, staff will continue to pursue possible revenue sources, and

WHEREAS, per Modesto Municipal Code Section 8-3.204, staff feels it’s in the best interest to terminate the current contract with Lionakis and begin a new contract, and

WHEREAS, the City’s current contract with Lionakis allows the City to terminate the agreement upon a determination it is in the best interest and convenience of the City, and

WHEREAS, Staff approached Lionakis about resuming design activities based on a new phased project, and

WHEREAS, the new Fleet Maintenance Facility would be a stand-alone 24,500 square foot, pre-fabricated metal building and service CNG vehicles, and

WHEREAS, the new facility will be capable of future expansion as additional funds and needs arise, and

WHEREAS, on July 17, 2015, the staff received a revised proposal from Lionakis to complete Design Services for the Fleet Maintenance Facility for an amount of $311,935.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Lionakis for Design Services for Fleet Maintenance Facility Project for an amount not to exceed $311,935.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
WHEREAS, this project will provide for a new Fleet Maintenance Facility located at 1609 8th Street at the City’s Corporation Yard. The new facility will incorporate all of the City’s work trucks, equipment and vehicle maintenance activities, and

WHEREAS, the City’s current Fleet Maintenance Facility located at 911 G Street is one of the properties anticipated to be occupied by the future Superior Courthouse of Stanislaus County, and

WHEREAS, on December 10, 2013, by Resolution Number 2013-455, the City Council approved an agreement with Lionakis for preparation of a Preliminary Design Report (PDR) for the Fleet Maintenance Facility, and

WHEREAS, on January 10, 2014, City staff started design coordination meetings led by Lionakis. As a result of that meeting and subsequent meetings, it was determined the City did not have adequate space to perform the essential day to day maintenance functions for a City of its size, and

WHEREAS, a Preliminary Design Report created by Lionakis determined that a building approximately 27,652 square feet in size was required to perform all of the required maintenance tasks by City of Modesto maintenance staff, and

WHEREAS, the City explored the idea of servicing compressed natural gas (CNG) vehicles within the Fleet Maintenance Facility, and
WHEREAS, Lionakis provided a cost estimate to revise the design to reflect CNG improvements but due to the budget concerns at the time, the idea was not pursued, and

WHEREAS, as a part of the PDR, Lionakis provided a detailed cost estimate for the construction of the new Fleet Maintenance Facility, and

WHEREAS, preliminary building cost at the time of 30% design was estimated from Lionakis at $7,665,340, and

WHEREAS, total construction costs including construction, construction administration, contingency, consultant design support during construction and consultant design were estimated at $10,328,078, and

WHEREAS, the consultant’s estimate was based on the completed 30% design package, it was not anticipated to be revised significantly downward if and when the project moved forward into final design, and

WHEREAS, staff realized that there was a revenue shortfall and unless the project could be downsized, the construction of the project would have to be delayed until it can be fully funded, and

WHEREAS, staff analyzed possible ways to downsize the 30% design through cost cutting measures, and

WHEREAS, phasing the project was explored along with deferring several aspects of the project, which resulted in a decreased building size of approximately 24,500 square feet and an estimated building cost of $5,908,803, and

WHEREAS, the total project cost decreased from approximately $10,328,078 to $7,720,387, and
WHEREAS, the City currently has approximately $4,938,230 in funds remaining available for the project, creating a funding shortfall, and

WHEREAS, Staff desires to complete the construction plans, specifications and cost estimates with Lionakis and have the project be shovel ready. To obtain budget, staff will continue to pursue possible revenue sources, and

WHEREAS, per Modesto Municipal Code Section 8-3.204, staff feels it’s in the best interest to terminate the current contract with Lionakis and begin a new contract, and

WHEREAS, the City’s current contract with Lionakis allows the City to terminate the agreement upon a determination it is in the best interest and convenience of the City, and

WHEREAS, Staff approached Lionakis about resuming design activities based on a new phased project, and

WHEREAS, the new Fleet Maintenance Facility would be a stand-alone 24,500 square foot, pre-fabricated metal building and service CNG vehicles, and

WHEREAS, the new facility will be capable of future expansion as additional funds and needs arise, and

WHEREAS, on July 17, 2015, the staff received a revised proposal from Lionakis to complete Design Services for the Fleet Maintenance Facility for an amount of $311,935, and

WHEREAS, of the current agreement signed with Lionakis for the Design Services, $136,603 was paid to complete 30% Design Services, and
WHEREAS, the original agreement was approved by council on December 10, 2013 in an amount not to exceed $340,170 which included 10% additional services, if needed, and

WHEREAS, the total amount encumbered for Design Services for the EDA phase of the project was $374,187, and

WHEREAS, in order to account for the new proposal price of $311,935, an additional $74,351 is needed, and

WHEREAS, to complete the Design phase, staff needs an additional $50,649 to assist and coordinate with the consultant, and

WHEREAS, staff is proposing to amend the project’s budget in order to have the necessary funds to support this phase by transferring $125,000 from the Construction (CON) phase of the project to Engineering / Design / Administration (EDA) which will increase the overall EDA budget to $376,658.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2015-2016 Capital Improvement Budget to transfer $125,000 from line item Construction (CON) to line item Engineering / Design / Administration (EDA) for CIP Project No. 100451.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2015-377

RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE TUOLUMNE RIVER REGIONAL PARK (TRRP) OBSTRUCTION MANAGEMENT PROJECT TO MAKE CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, AND FINDINGS REGARDING ALTERNATIVES

WHEREAS, the Modesto City-County Airport (Airport) is a federally obligated facility and is required to meet Federal Aviation Administration (FAA) standards, including maintaining navigable airspace per FAA Regulation (FAR) Part 77, Subpart C, and

WHEREAS, potential obstructions are determined by FAA Regulation, and

WHEREAS, the City was required to complete an Environmental Impact Report (EIR), with focus on airway obstructions, including trees that penetrate the navigable airspace within the jurisdictions of the City of Modesto, specifically the Tuolumne River Regional Park area, and

WHEREAS, the Notice of Preparation provided notice of the City’s determination to prepare an EIR, and solicited public input on the proposed scope and content of the EIR for the Project, and

WHEREAS, on February 05, 2014, the City held a public scoping meeting to receive public comments on the scope and content of the EIR, and

WHEREAS, on September 2, 2014, the City published and distributed a Draft EIR for the Modesto City-County Airport Obstruction Management Project (State Clearinghouse Number 2014012042) (“DEIR”) for public comment, in accordance with Section 21091 of the California Environmental Quality Act (“CEQA”), and...
WHEREAS, the DEIR was available for public comment for a period of at least 45 days as required by Section 21091 of CEQA, the close of the public comment period being October 24, 2014, and

WHEREAS, during the 45-day public comment period the City received seven letters commenting on the DEIR, and

WHEREAS, the City prepared written responses to all written comments received on the DEIR, said responses being contained in a Final EIR for the Tuolumne River Regional Park Obstruction Management Project (State Clearinghouse Number 2014012042) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, on January 9, 2015, the FEIR was published and distributed, consisting of the Draft EIR, a list of commenters, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, the Project would include trimming and perhaps limited removal of approximately 999 (989 native and 10 non-native) trees within the project site boundaries. Of the 999 trees identified, 240 trees are within runway 28R’s object free area (OFA) and will require removal, and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects, and
WHEREAS, the City Council has received and considered the FEIR for the Tuolumne River Regional Park Obstruction Management Project (SCH No. 2014012042) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines in respect to the FEIR:

1. That the FEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearing on the FEIR and the Project, prior to acting upon or approving the Project; and that the FEIR represents the independent judgment of the City of Modesto; and

2. That the Findings and Statements set forth in Exhibit “A” and incorporated herein by reference, be made by the Council as the City’s findings under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project’s environmental impacts, mitigation measures and alternatives to the Project.

3. The City Council hereby adopts the Mitigation Monitoring and Reporting Program for the Tuolumne River Regional Park Obstruction Management Project that is included into the FEIR. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

4. The City Council hereby adopts the Statement of Overriding Considerations contained in the attached Exhibit A. As set forth in Exhibit A, the City Council finds that the specific economic, legal, social, and technological benefits of the Project outweigh the significant and unavoidable adverse environmental impacts of the Project.

5. The City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Environmental Impact Report for the Project (“DEIR”) and also incorporates information obtained by the City since the DEIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional
information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the FEIR for further public review and comment is not warranted; and

6. The City Council does hereby designate the Public Works Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354, as the custodian of documents and record of proceedings on which the decision is based; and

7. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the FEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the FEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Environmental Impact Report for the Tuolumne River Regional Park Obstruction Management Project (SCH No. 2014012042), on file in the office of the Public Works Department and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney

STEFANIE LOPEZ, City Clerk
FINDINGS & STATEMENTS ON THE TUOLUMNE RIVER REGIONAL PARK
OBSTRUCTION MANAGEMENT PROJECT EIR

SECTION I
INTRODUCTION

A. Project Description

The Tuolumne River Regional Park (TRRP) has hundreds of trees, including oaks and other native species. 999 trees, 989 native and 10 non-native, have been identified as penetrating the navigable airspace as defined by the FAA (FAR) Part 77, Subpart C. The trees identified as penetrating navigable airspace are located within TRRP, which is owned and operated by the TRRP Joint Powers Authority (JPA). The 113 acre Project site is bound by the Modesto City-County Airport to the north, the Tuolumne River to the south, Tioga Drive to the west and Mitchell Road to the east. An Environmental Impact Report was conducted. It has been determined the best approach for mitigation is the proposed project as described in the EIR, which includes trimming where appropriate and complete tree removal as necessary and implementation of a re-vegetation plan.

B. Legal Requirements

Public Resources Code Section 21002 states that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." Section 21002 further states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”

Pursuant to Section 15091 of the State CEQA Guidelines, the City may only approve or carry out a project for which an EIR has been completed that identifies any significant environmental effects if the City makes one or more of the following written finding(s) for each of those significant effects, accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which will avoid or substantially lessen the significant environmental impact as identified in the EIR; or

2. Such changes or alterations are within the responsibility and jurisdiction of a public agency other than the City, and such changes have been adopted by such other agency, or can and should be adopted by such other agency; or

3. Specific economic, social, legal, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.
Notably, Public Resources Code Section 21002 requires an agency to "substantially lessen or avoid" significant adverse environmental impacts. Thus, mitigation measures that "substantially lessen" significant environmental impacts, even if not completely avoided, satisfy Section 21002's mandate [Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 515, 521 ("CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced environmental damage from a project to an acceptable level"); Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal. App. 3d 300, 309 ("[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible").

The Public Resources Code requires that lead agencies adopt feasible mitigation measures or alternatives to substantially lessen or avoid significant environmental impacts. An agency need not, however, adopt infeasible mitigation measures or alternatives [State CEQA Guidelines, § 15091, subds. (a), (b)]. Public Resources Code Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." State CEQA Guidelines Section 15091 adds "legal" considerations as other indicator of feasibility. (See also Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 555.) Project objectives also inform the determination of "feasibility" (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 401, 417). "[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors" (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 401, 417; see also Sequoyah Hills Homeowners Assn. v. City of Oakland (1993) 23 Cal.App.4th 704, 715).

Environmental impacts that are less than significant do not require the imposition of mitigation measures (Leonoff v. Monterey County Board of Supervisors (1990) 222 Cal.App.3d 1337, 1347).

The California Supreme Court has stated, "{t}he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 576). In addition, perfection in a project or a project's environmental alternatives is not required; rather, the requirement is that sufficient information be produced "to permit a reasonable choice of alternatives so far as environmental aspects are concerned." Outside agencies (including courts) are not to "impose unreasonable extremes or to interject [themselves] within the area of discretion as to the choice of the action to be taken" (Residents Ad Hoc Stadium Com. v. Board of Trustees (1979) 89 Cal.App.3d 274, 287).

C. Summary of Environmental Findings

As more fully explained below, the City Council has determined that based on all of the evidence presented, including, but not limited to, the EIR, written and oral
testimony given at meetings and hearings, and submission of comments from the public, organizations, and regulatory agencies, and the responses prepared to the public comments, the following environmental impacts associated with the project are:

1. **Topics That Were Scoped out of the EIR for Having Less Than Significant or No Impacts**
   - Agriculture and Forestry Resources (all)
   - Geology, Soils, and Seismicity (all)
   - Hazards and Hazardous Materials (all)
   - Land Use and Planning (all)
   - Mineral Resources (all)
   - Population and Housing (all)
   - Public Services (all)
   - Recreation (all)
   - Transportation and Traffic (all)
   - Utilities and Service Systems (all)

2. **Less Than Significant and No Impacts (Do Not Require Mitigation)**
   - Air Quality (all)
   - Biological Resources (Wetlands as defined by Section 404 of the Clean Water Act; Interference with the Movement of any Native Resident or Migratory Fish or Wildlife Species; Conflict with Local Policies Protecting Biological Resources; Conflict with an Adopted Habitat Conservation Plan)
   - Cultural Resources (Impact to a Historical Resource)
   - Greenhouse Gas Emissions (all)
   - Hydrology and Water Quality (Depletion of Groundwater Supplies; Alteration of Existing Drainage Pattern; Create Runoff; Place Housing or Structures within a 100-year Flood Hazard Area; Exposure to a Failure of a Dam or Levee; Exposure to Inundation by Seiche, Tsunami, or Mudflow)
   - Noise (Exposure to Groundbourne Vibration; Permanent Increase in Ambient Noise Levels; Increase in Noise Levels Near a Public or Private Airport)
3. Potentially Significant Impacts That Can Be Avoided or Reduced to a Less Than Significant Level Through Implementation of Mitigation Measures

- Biological Resources (Impacts to Elderberry Shrubs, Disturbance of Nesting Migratory Birds and Raptors, Disturbance of Western Pond Turtle, Disturbance of Roosting Special-Status Bats, and Impacts to Riparian Habitat)

- Cultural Resources (Disturbance or discovery of unknown Archeological Resources or Human Remains)

- Water Quality (Impacts to the turbidity and general quality of the Tuolumne River)

- Noise (Construction Noise Impacts to Sensitive Receptors)

4. Potentially Significant Impacts That Cannot Be Avoided or Reduced to a Less Than Significant Level Through Implementation of Mitigation Measures

- Aesthetics (Impacts to physical changes, intrinsic scenic value to various viewer groups)

This document contains the findings required under the California Environmental Quality Act ("CEQA") (Public Resources Code, § 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.).

Public Resources Code Section 21081.6 requires the City to prepare and adopt a Mitigation Monitoring and Reporting Program for any project for which mitigation measures have been imposed to assure compliance with the adopted mitigation measures. The City adopts a Mitigation Monitoring and Reporting Program for the project in Attachment "B" of this Resolution.

No comments made in the public hearings conducted by the City Council or any additional information submitted to the City has produced any substantial new information requiring recirculation or additional environmental review of the Final EIR under CEQA because no new significant environmental impacts were identified, no substantial increase in the severity of any environmental impacts would occur, and no feasible mitigation measures or project alternatives as defined in State CEQA Guidelines Section 15088.5 were rejected.

SECTION II
FINDINGS REGARDING ENVIRONMENTAL IMPACTS NOT REQUIRING MITIGATION

Section 15091 of the State CEQA Guidelines does not require specific findings to address environmental effects that an EIR identifies as having "no impact" or a "less
than significant” impact. Nevertheless, these findings fully account for all resource areas evaluated in the EIR, including resource areas that were identified in the EIR to have either no impact or a less than significant impact on the environment. The City Council hereby finds that the project would either have no impact or a less than significant impact in the following resource areas:

A. **Air Quality**

1. **Conflict or Obstruct with Implementation of an Air Quality Plan (Impact 3.2-1):** If a City’s General Plan is consistent with the most recently adopted air quality plans, a project that is consistent with the General Plan’s land use designation is considered consistent with applicable air quality plans and policies. The Proposed Project would involve temporary tree trimming activities and would be consistent with the General Plan land use designations and zoning. Therefore, the Proposed Project would result in a less-than-significant impact because it would not conflict with the applicable air quality plans. [Draft EIR p. 3-24]

2. **Violate an Air Quality Standard or Substantially Contribute to an Existing Air Quality Violation (Impact 3.2-2):** Estimated emissions from construction during 2014 would not exceed SJVAPCD thresholds. However, the Proposed Project would need to comply with all applicable SJVAPCD Rules and Regulations. Since compliance is required by law, the SJVAPCD Rules and Regulations are not included as mitigation and no additional emission reduction controls would be required. The Proposed Project would result in less-than-significant criteria pollutant emissions. [Draft EIR p. 3-24 through p. 3-25]

3. **Expose Sensitive Receptors to Substantial Pollutant Concentrations (Impact 3.2-3):** Carbon Monoxide (CO) is a localized pollutant of concern. Due to the distance between construction activities and sensitive receptors, and the minimal CO emissions associated with tree trimming activities, the Proposed Project would not emit CO in quantities that could pose health concerns. The Proposed Project would not result in long-term CO emissions. Thus, the Proposed Project would not result in or contribute to CO concentrations that exceed the California 1-hour or 8-hour ambient air quality standards. This impact would be less-than-significant and no mitigation is required. Furthermore, the short-term increase in toxic air contaminant (TAC) emissions from equipment and on-road vehicle fuel combustion associated with the Proposed Project would be insignificant (2 months) over the 70 year health risk assessment period. The nearest receptors are a substantial distance away (275 feet) and use of equipment would be temporary and episodic, affecting only a few nearby receptors for a limited time period. The Proposed Project would not result in long-term TAC emissions. Consequently, the Proposed Project would result in a less-than-significant impact. [Draft EIR p. 3-26]

4. **Cumulative Increase in Criteria Pollutants (Impact 3.2-4):** The Proposed Project would result in a negligible increase of criteria pollutant
emissions in the SJVAB during the temporary tree trimming duration, would comply with all applicable SJVAPCD Rules and Regulations, and would not result in long-term emissions. Therefore, when considered in conjunction with other closely related projects, the Proposed Project would not be considered cumulatively considerable and would result in less-than-significant cumulative impacts on the air quality environment. [Draft EIR p. 3-27]

B. Biological Resources

1. Impact a Federally Protected Wetland as Defined by Section 404 of the Clean Water Act (Impact 3.3-3): Direct impacts to wetlands and other waters of the U.S. are not expected. The Proposed Project will not result in the loss of wetlands and other waters of the U.S., nor will any fill of wetlands and other waters of the U.S. occur. Project activities occurring near potentially jurisdictional features may result in a discharge of sediments downstream of these sites. Increased sedimentation to these features could lead to decreases in water quality and subsequent impacts to the biological community dependent on these features. BMPs have been proposed to protect wetlands and other waters of the U.S. from indirect impacts. With implementation of BMPs, impacts to wetlands and other waters of the U.S. are not expected. In addition, implementation of Mitigation Measure 3.3—4, 3.3-5 and 3.3-6 will provide additional protection to riparian and wetland habitats. Overall, impacts to wetlands and other waters of the U.S. are considered less than significant. [Draft EIR p. 3-69]

2. Interfere with the Movement of a Native Resident or Migratory Fish or Wildlife Species (Impact 3.3-4): The Tuolumne River provides suitable habitat for special-status fish species and the river is also designated a critical habitat for Central Valley steelhead. Tree trimming and removal activities may temporarily disrupt wildlife movement within the study area. However, the disturbance would only occur during the trimming or removal activities and the disruption of wildlife movement is temporary in nature. Implementation of the Proposed Project would not interfere substantially with the movement of fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Therefore, impacts to wildlife or fish movement or migration are considered less than significant. [Draft EIR p. 3-69 through p. 3-70]

3. Conflict with Local Policies or Ordinances Protecting Biological Resources (Impact 3.3-5): The Proposed Project would remove or trim trees in accordance with the Vegetation Management Plan, as well as standards set forth by American National Standards Institute guidelines for tree care operations and pruning (ANSI A300). The Plan was developed by the City of Modesto to enable MOD to remain in compliance with applicable FAA safety standards. The Vegetation Management Plan is in compliance with local policies and ordinances and is consistent with the Stanislaus County General Plan. The ANSI A300 standards are the generally accepted industry standards for tree care practices. They are voluntary industry consensus standards developed by Tree Care Industry Association (TCIA) and written by
a committee called the Accredited Standards Committee (ASC) A300, whose mission is to develop consensus performance standards based on current research and sound practice for writing specifications to manage trees, shrubs, and other woody plants (TCIA 2012). As with the Vegetation Management Plan, the ANSI 300A standards are in compliance with local policies and ordinances. Additionally, Mitigation Measure 3.3-6 would mitigate for the loss of tree resources/riparian habitat. Thus, there would be no impact (no conflict) to local policies or ordinances as a result of the implementation of the Proposed Project in accordance to recommendations from the Vegetation Management Plan and ANSI A300. [Draft EIR p. 3-70]

4. **Conflict with an Adopted Habitat Conservation Plan (Impact 3.3-6):** Stanislaus and its nine incorporated cities currently do not have any adopted Habitat Conservation Plans (HCPs). The Proposed Project is not located within an adopted HCP, Natural Community Conservation Plan (NCCP), or other approved local, regional, or state habitat conservation plan. Therefore, the project would not conflict with any HCPs or NCCPs. [Draft EIR p. 3-70]

C. **Cultural Resources**

1. **Adverse Change in the Significance of a Historical Resource (Impact 3.4-1):** Field reconnaissance did not identify any prehistoric or historic period cultural resources within the project area. Similarly, archival research did not identify the presence of any cultural resources within the project area. While the records search results did identify on City of Modesto designated Landmark Preservation site, a “Large Valley Oak Tree” planted in Tuolumne River Regional Park in 1858, the tree is within the westernmost project study area and is not within the area designated for tree trimming or removal. Given the absence of known cultural resources within the project site, impacts to historic resources are considered less than significant. [Draft EIR p. 3-86]

D. **Greenhouse Gas Emissions**

1. **Generate Greenhouse Gas Emissions That May Have a Significant Impact on the Environment (Impact 3.5-1):** The Proposed Project includes trimming of about 1,000 trees that are located in the City of Modesto. Pruning would occur during the winter season for approximately 2 months and would involve the use of hand tools (such as hand saws and chainsaws). Removed limbs and other refuse would be loaded onto trucks and removed in accordance with the City of Modesto municipal code pertaining to the collection of pruned refuse. An arborist and crew of 10 to 15 workers would conduct the tree trimming. The Proposed Project would not result in long-term activities and GHG emissions. Construction emissions were modeled using CalEEMod 2013.2.2 software and compared to the most stringent threshold described above. It should be noted that the 1,100 metric tons of CO2e per year threshold was developed for long-term operational emissions associated with land-use development projects. However, in the absence of a construction-specific threshold, the 1,100
metric tons of CO2e per year threshold provides a conservative threshold against which to evaluate construction emissions. If annual construction emissions for a project component would exceed 1,100 metric tons of CO2e per year, emissions would be considered significant. Estimated GHG emissions from the Proposed Project would be approximately 81 metric tons, which would be negligible. No long-term GHG emissions would be generated by the Proposed Project. This impact would be less than significant without mitigation. [Draft EIR p. 3-106 through p. 3-107]

2. **Conflict with an Applicable Plan, Policy, or Regulation Adopted for the Purpose of Reducing Emissions of Greenhouse Gases (Impact 3.5-2):** The Proposed Project would not result in long-term activities and GHG emissions. The City of Modesto has not established a GHG reduction plan. The Proposed Project would not conflict with any applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. This would be a less than significant impact. [Draft EIR p. 3-107]

3. **Cause or Contribute to a Cumulative Impact Related to Greenhouse Gases (Impact 3.5-3):** GHG emissions are considered cumulative in nature. Impact 3.5-1, addresses the potential for the Proposed Project to generate GHG emissions, either directly or indirectly, that may have a cumulatively significant impact on the environment. Results presented above indicate that the Proposed Project would not have a cumulatively significant contribution on GHG emissions; therefore, cumulative impacts related to GHG emissions are considered to be less than significant. [Draft EIR p. 3-107]

E. **Scenic Resources**

1. **Daytime or Nighttime Scenic Views Impacted by Light or Glare (Impact 3.1-4):** Implementation of the Proposed Project would result in the trimming or removal of trees within portions of the TRRP located south of the airport. The Proposed Project would not result in the creation of light or glare that would adversely affect the daytime or nighttime views of receptors that live or work in the vicinity of the project site. Therefore, there is no impact and no mitigation is required. [Draft EIR p. 3-9]

2. **Damage Scenic Resources (Impact 3.1-2):** The current Caltrans Map of Designated Scenic Routes indicates that there are no officially designated state scenic highways in the City of Modesto (Caltrans 2014). Furthermore, Mitchell Road and River Road, which are the closest streets to the project study area, are not identified as scenic roads by any City, County or State planning document. Therefore, the Proposed Project would have no impact on scenic resources associated with a scenic highway or roadway, and no mitigation is required. [Draft EIR p. 3-8]
SECTION III

FINDINGS REGARDING ENVIRONMENTAL IMPACTS
MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT

The City Council finds that the following environmental impacts identified in the EIR are potentially significant, but can be mitigated to a less than significant level. The potentially significant impacts and the mitigation measures which would reduce them to a less than significant level are set forth in the EIR and are summarized as follows:

A. Biological Resources

1. Impacts to Candidate, Sensitive, or Special Status Species (Impact 3.3-1): Through physical surveys of the project site and database research, it was determined that the Proposed Project site has the potential to contain habitat conducive to the following candidate, sensitive, or special status species: valley elderberry longhorn beetle, hardhead and Central Valley steelhead, Swainson's hawk, burrowing owl, great blue heron, yellow-breasted chat, western pond turtle, and special status bats. With the exception of the hardhead and Central Valley steelhead, implementation of the Proposed Project has the potential to impact these species through loss of habitat or disturbance during nesting and roosting season. [Draft EIR p. 3-62 through p. 3-63]

Finding: The mitigation measures outlined below would reduce to a less-than-significant level the project’s impacts to candidate, sensitive, or special status species. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measures 3.3-1: Avoid or Minimize Impacts to Elderberry Shrubs. In order to avoid potential direct and indirect impacts to valley elderberry longhorn beetle, the following avoidance and protective measures would be implemented based upon the USFWS’s Conservation Guidelines for Valley Elderberry Longhorn Beetle:

- Fence and/or flag all areas to be avoided during trimming activities as directed or approved by a USFWS approved biologist. Provide a minimum setback of at least 20 feet from the dripline of each elderberry plant.

- Restore any temporary damage done to the buffer area (area within 100 feet of elderberry plants) during project activities. Provide erosion control and re-vegetate with appropriate native plants as approved by a qualified biologist.

- Prevent the use of insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant within 100 feet of any elderberry plant with one or more stems measuring 1.0 inch or greater in diameter at ground level.
Elderberry shrub protection during tree trimming activities will be provided by use of cables or other measures to direct limb fall, and the cutting of trees in sections.

When project activities may occur within 100 feet of a suitable shrub, a biologist will be on-site at all times to ensure that the buffer is maintained and monitor and quantify any unanticipated damage to the shrubs.

Access routes for machinery will be located outside a 20 foot buffer wherever possible, and all mulching activity will occur outside of a 20 foot buffer.

Contractors and work crews will be briefed about the status of the beetle, its biology and ecology, and the need to protect its host plant. They will also be briefed on the need to avoid damaging the elderberry shrubs and the possible penalties for not complying with these requirements.

Signs will be erected every 50 feet along the edge of the avoidance area(s) with the following information: “This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” The signs should be clearly readable from a distance of 20 feet, and must be maintained for the duration of project activities.

For shrub clusters that are located within a distance of 10 feet or less from a tree that needs to be treated, the following conservation measures shall be implemented:

- Tree limbs and pieces of trunk will be removed via climbers with hand tools and will be lowered via ropes/cables or other means to a location outside of the 10 foot buffer zone.
- Tarps, ropes, or other gently placed materials may be used to temporarily hold back elderberry stems while removing trees that are within the shrub’s canopy. [Draft EIR p. 3-63 through p. 3-64]

Mitigation Measure 3.3-2: Avoid Disturbance of Nesting Migratory Birds and Raptors. To avoid impacts on nesting birds and raptors, the following avoidance and minimization measures should be implemented:

1. To the extent feasible, tree treatment activities associated with the project will be conducted outside the breeding season (which generally occurs between March 1 and August 15) for migratory birds and raptors.

2. If tree treatment activities are to take place during the breeding season for these species, a qualified wildlife biologist will be hired to conduct focused pre-treatment nest surveys for active special and non-special status migratory bird and raptor nests. Pre-treatment surveys for tree-nesting raptors and migratory songbirds shall be conducted within 15 days prior to any project activities that will occur between March 1 and August 15 of any given year. All suitable nesting habitat for tree nesting
raptors and migratory songbirds shall be surveyed within 250 feet of the proposed treatment areas. For Swainson’s hawk surveys, guidelines provided in the *Recommended Timing and Methodology for Swanson’s Hawk Nesting Survey in the Central Valley* (Swainson’s Hawk Technical Advisory Committee 2000) would be followed where possible (Appendix G).

3. Surveys for burrowing owls would be conducted between March and May and in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012; Appendix H).

4. Should active nests be identified by these surveys, the nest sites shall be protected from all treatment activities within 250 feet of the nest site until the young have fledged. Treatment activities that must occur within 250 feet of an active nest shall not take place without prior consultation with the California Department of Fish and Wildlife. [Draft EIR p. 3-64]

**Mitigation Measure 3.3-3: Avoid Disturbance to Roosting Bats and Maternity Colonies.** To avoid impacts on roosting bats and maternity colonies, the following avoidance and minimization measure should be implemented:

1. If tree removal or ground disturbing activities commence on the Project site during the breeding season of native bat species (April 1 to August 31), then a field survey shall be conducted by a qualified bat biologist to determine whether active roosts are present on site or within 50 feet of the project boundaries. Field surveys shall be conducted early in the breeding season before any Project activities begin, when bats are establishing maternity roosts but before pregnant females give birth (April through early May). If no roosting bats are found, then no further mitigation is required.

2. If roosting bats are found, then disturbance of the maternity roosts shall be avoided by halting Project activities until the end of the breeding season or a qualified bat biologist removes and relocates the roosting bats in consultation with CDFW. [Draft EIR p. 3-64 through 3-65]

**Rationale:** The EIR determined that Mitigation Measures 3.3-1, 3.3-2 and 3.3-3, would set forth a series of procedures that would occur prior to and during construction activities. Pre-construction surveys would identify potential protected species, thus enabling the contractor to avoid their nests during construction activities. Similarly, the avoidance and protective measures recommended above would assist the contractor in minimizing impacts to valley elderberry longhorn beetle by avoiding direct take of their habitat during construction activities. With implementation of these measures, potential impacts to valley elderberry longhorn beetle special status raptor and other migratory birds, and native bat species would be reduced to less-than-significant levels. [Draft EIR p. 3-64 through p. 3-65]

**3. Adverse Effect on Any Riparian Habitat or Other Sensitive Natural Community (Impact 3.3-2):** The proposed trimming of trees within the
project site would have potentially significant impacts on valley foothill riparian habitat and Valley oak woodland, both of which are identified as sensitive natural communities by the California Department of Fish and Wildlife. [Draft EIR p. 3-65 through 3-67]

**Finding:** The mitigation measures outlined below would reduce to a less-than-significant level the project's impacts related to valley foothill riparian habitat and Valley oak woodland. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measure 3.3-4: Conduct WEAP to Avoid or Minimize Impacts on Riparian Habitat.** Prior to the start of project activities, a Worker Environmental Awareness Program shall be developed and presented to the contractor in order to address planned work procedures around trees, the locations where specialized treatments are required, and review the acceptable equipment that the contractor may use for project activities. This program will also address valley elderberry longhorn beetle and other sensitive biological resources on the project site. [Draft EIR p. 3-68]

**Mitigation Measure 3.3-5: Establish Tree Removal and Trimming Guidelines to Minimize Disturbance.** All trimming will be performed using hand tools to prevent additional damage to riparian vegetation. All slash materials (limbs, branches and other woody debris) resulting from trimming activities shall be removed from the study area and properly disposed of at an off-site location.

Furthermore, the City shall protect wetlands, riverine and associated riparian habitats by installing protective fencing. Protective fencing shall be installed along the edge of wetland, riverine and riparian areas, where project activities will occur within 200 feet of the edge of protected habitat (as determined by a qualified biologist). The location of fencing shall be marked in the field with stakes and flagging. [Draft EIR p. 3-68 through 3-69]

**Mitigation Measure 3.3-6: Mitigate for the Loss of Tree Resources.** The City shall mitigate for the loss of riparian habitat on the site attributable to the removal of mature riparian species. Unless mitigation plantings are found to be infeasible, mitigation for the removal of riparian habitat shall occur through a combination of A and/or B below:

**A.** Trees would be mitigated at a four-to-one ratio in areas where trees would not interfere with airport operations. Mitigation would be carried out within the Tuolumne River Regional Park Corridor, where appropriate. A Replacement Riparian Tree Planting Plan consistent with the minimum elements specified below shall be prepared. The Replacement Riparian Tree Planting Plan shall include the following minimum elements:
o The plan will specify size, source and specifications of the replacement tree seedlings. At a minimum, all plantings would be direct-seeded with locally collected large acorns and planting procedures would be implemented as recommended by the Vegetation Management Plan. Alternatively, young seedlings less than one year old may be used when produced from locally obtained acorns.

o The Plan will include measures for mitigation tree monitoring, weed management, and irrigation. These measures would be implemented as needed to ensure successful survival of young seedlings. The condition of mitigation plantings would be monitored and would include data on seedling height, mortality, and surrounding soil moisture.

B. Replacement for the total number of inches (measured in DBH) lost may be purchased from an oak and riparian tree mitigation bank prior to implementation of tree management actions.

Rationale: The EIR determined that Mitigation Measure 3.3-4 would establish a pre-construction awareness program and establish construction guidelines to help educate contract workers on the biological issues prevalent within the Proposed Project area. By conducting WEAP training prior to the start of construction activities, workers will have a greater awareness of specialized work procedures around protected habitat such as elderberry shrubs and protected waters of the U.S., and adherence to the tree trimming and removal guidelines will help ensure impacts to these biological resources are avoided. Through implementation of Mitigation Measures 3.3-5 and 3.3-6 potential impacts to riparian habitat or other sensitive natural communities would be reduced to a less than significant level. [Draft EIR p. 3-68 through p. 3-69]

3. Cumulative Impacts to Biological Resources (Impact 3.3-7). The only other "closely related" project that was identified in the vicinity of the project site was another tree management project located east and south of the airport. Similar to the Proposed Project, tree management activities would be subject to the guidelines set forth in the Vegetation Management Plan, as well as the ANSI A300 pruning standards. Furthermore, future management of trees within the TRRP would be conducted under the TRRP Management Plan (Plan). The Plan was designed with a strong conservation-oriented approach in order to protect and enhance the river, integrating the natural processes that shaped the landscape. Therefore, similar BMPs and measures to avoid or limit impacts to biological resources such as native trees, wetlands, and threatened or endangered species would be required as a part of this separate project. Nevertheless, implementation of the Proposed Project would result in the removal of, at a minimum, 233 native oak trees within TRRP. As described under Impact 3.3-2, implementation of the Proposed Project would result in impacts to native riparian trees and habitat, which, despite proposed mitigation, would remain significant. When considered in combination with other closely related projects, such as the tree trimming project to the east and southeast of the airport, implementation of the
Proposed Project would result in a cumulatively significant impact to native riparian habitat on the site attributable to the removal of mature riparian tree species. [Draft EIR p. 3-70 through p. 3-71]

**Finding:** The mitigation measures outlined below would reduce to a less-than-significant level the project's potential cumulative impacts to biological resources. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

See Mitigation Measures 3.3-4 through 3.3-6. Implement these measures as described above. [Draft EIR p. 3-68]

**Impact Significance after Mitigation:** Mitigation Measure 3.3-4 would establish a construction awareness program and establish guidelines to help educate contract workers on the biological issues prevalent within the Proposed Project site. By conducting WEAP training prior to the start of construction activities, workers will have a greater awareness of specialized work procedures around protected habitat such as elderberry shrubs and protected waters of the U.S., and adherence to the tree trimming and removal guidelines will help ensure impacts to these biological resources are avoided. Through implementation of the Mitigation Measures 3.3-5 and 3.3-6, potential cumulative impacts to riparian habitat or other sensitive natural communities would be reduced to a less than significant level.

**B. Cultural Resources**

1. **Cause an Adverse Change in the Significance of an Unknown Paleontological, Geological, or Archeological Resource (Impact 3.4-2 and Impact 3.4-3):** Neither the archival search nor the field reconnaissance resulted in the identification of prehistoric archaeological resources within the Proposed Project area. Regardless, the possibility still exists for the discovery of such resources as a result of potential earthmoving activities associated with the Proposed Project (e.g. tree stump removal). Prehistoric materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, hand stones, or milling slabs), as well as battered stone tools, such as hammer stones and pitted stones. Inadvertent damage to significant and unique archaeological or paleontological resources during construction would be a potentially significant impact. Implementation of Mitigation Measure 3.4-1, however, would reduce potential impacts to a less-than-significant level [Draft EIR p. 3-87]

**Finding:** The mitigation measure outlined below would reduce to a less-than-significant level the project's potential impact to unknown paleontological, geological, or archeological resources. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the
potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Measure 3.4-1: Discovery of Archaeological, Paleontological or Geological Resources. In the event that previously unidentified archaeological, Native American, or paleontological resources are uncovered during project implementation, all work should cease within 100 feet of the find until it can be evaluated by a qualified archaeologist, as defined as one meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology, or paleontologist (U.S. Department of the Interior, 2012). If the find is determined to be potentially significant, the archaeologist, in consultation with the lead agency and appropriate Native American group(s) (if the find is prehistoric or Native American in nature) or paleontologist should develop a treatment plan with an emphasis towards preservation in place. If resources are encountered, avoidance, or preservation in an undisturbed state is the preferable course of action. CEQA §21083.2(b). provides that preservation methods may include:

- Planning construction to avoid archaeological sites;
- Deeding sites into permanent conservation easements;
- Capping or covering sites with a layer of soil before building on the sites; and
- Planning parks, green space, or other open space to incorporate archaeological sites. [Draft EIR p. 3-87]

Rationale: The EIR determined that implementation of this measure shall ensure that all applicable government regulations (as identified above) are adhered to in the event of the discovery of archeological, paleontological or geological resources. Potential impacts to archeological, paleontological or geological resources, with the implementation of this measure, are considered less than significant. [Draft EIR p. 3-87]

2. Disturb any human remains, including those interred outside a formal cemetery (Impact 3.4-4): There is no indication, either from the archival research results or the archaeological survey, that any particular location in Proposed Project area was used for human burial purposes in the recent or distant past. Therefore, it is unlikely that human remains would be encountered during the Proposed Project. However, in the unlikely event that human remains were discovered during subsurface activities, including those interred outside of formal cemeteries, the human remains could be inadvertently damaged, which could be a significant impact. [Draft EIR p. 3-88]

Finding: The mitigation measure outlined below would reduce to a less-than-significant level the project’s potential impact to human remains interred outside a formal cemetery. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).
Measure 3.4-3: Accidental Discovery of Human Remains. If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission. The NAHC will then identify the person(s) thought to be the Most Likely Descendent of the deceased Native American, who will then participate in consultation with the landowner to determine the appropriate future disposition of the remains. [Draft EIR p. 3-88 through p. 3-89]

Rationale: The EIR determined that implementation of this measure shall ensure that all applicable government regulations (as identified above) are adhered to in the event of the discovery of human remains. Potential impacts to human remains, with the implementation of this measure, are considered less than significant. [Draft EIR p. 3-89]

3. Cumulative impacts to cultural resources (Impact 3.4-5): As described in Chapter 2, Proposed Project, [Draft EIR p. 2-1 through p. 2-20], the only other “closely related” project that was identified in the vicinity of the project site was another tree management project near the TRRP. Although the Proposed Project would have potentially significant impacts to unknown archaeological resources and human remains, there are no other past, present, or reasonably foreseeable future development projects which could combine with the project’s impacts to form a significant, cumulative impact to archaeological resources or human remains. While the future project identified within the TRRP would potentially include earth-disturbing activities (i.e., stump removal), it is likely that similar measures to those identified in this EIR to avoid impacts to unknown cultural resources would be implemented for that project. As such, implementation of Mitigation Measures 3.4-1 through 3.4-3, in addition to similar measures undertaken through CEQA guidelines and standards in projects in the vicinity, would mitigate cumulative impacts to cultural resources. Therefore, the Proposed project would not result in significant cumulative impacts to cultural resources.

C. Hydrology and Water Quality

1. Violate Any Water Quality Standards or Waste Discharge Requirements (Impact 3.6-1): Implementation of the Proposed Project, which includes the trimming of trees obstructing MOD’s navigable airspace, may generate minor, but adverse impacts to water quality. These impacts may be generated through tree trimming operations along the banks of the Tuolumne River. Potential impacts include falling wood debris, disturbed sediment, and additional sources of pollutants, including petroleum-based vehicle and equipment fluids and trash. The introduction or combined introduction of any of these pollutants could increase turbidity in the River, thus potentially violating the policies and guidelines identified in the Regulatory Setting above. Violation of these standards is considered a potentially significant impact. [Draft EIR p. 3-113]

Finding: Implementation of Mitigation Measures 3.6-1 through 3.6-3 would avoid potential violations to applicable water quality standards. The mitigation measures reflects changes or alterations that the City has
required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measures 3.6-1: Implement Mitigation Measure 3.3-5 (See section 3.3), which calls for the City to conduct WEAP training prior to construction to avoid or minimize impacts on riparian habitat.

Mitigation Measure 3.6-2: Implement Mitigation Measure 3.3-6 (See section 3.3), which calls for the establishment of tree removal and trimming guidelines to minimize disturbance to the Tuolumne River and other habitat.

Mitigation Measure 3.6-3: Implement soil erosion best management practices (BMPs). Prior to and during demolition and construction activities, the contractor shall implement the following BMPs:

- Placing fiber rolls around onsite drain inlets to prevent sediment and construction-related debris from entering inlets.
- Placing fiber rolls along the perimeter of the site to reduce runoff flow velocities and prevent sediment from leaving the site.
- Placing silt fences downgradient of disturbed areas to slow down runoff and retain sediment.
- All disturbed soil will be seeded, mulched, or otherwise protected at the end of tree maintenance activities.
- Stabilizing construction entrance to reduce the tracking of mud and dirt onto public roads by construction vehicles. [Draft EIR p. 3-114 through 3-115]

Rationale: The EIR determined that implementation of Mitigation Measures 3.6-1 through 3.6-3 will ensure that debris and erosion associated with demolition and construction activities is minimized and that trimmings, fluids, trash, and topsoil is retained and kept away from inlets, storm drains, and open surface water. With implementation of this measure, impacts to water quality associated with the generation of debris and the loss of topsoil are reduced to less-than-significant levels. [Draft EIR p. 3-115]

2. Otherwise Substantially Degrade Water Quality (Impact 3.6-6):

Implementation of the Proposed Project, which includes the trimming of trees obstructing MOD's navigable airspace, may generate minor, but adverse impacts to water quality. These impacts may be generated through tree trimming operations along the banks of the Tuolumne River. Potential impacts include falling wood debris, disturbed sediment, and additional sources of pollutants, including petroleum-based vehicle and equipment fluids and trash. The introduction or combined introduction of any of these pollutants could increase turbidity in the River, thus potentially degrading water quality within the project site. This is considered a potentially significant impact. [Draft EIR p. 3-116]
**Finding:** Implementation of Mitigation Measures 3.6-1 through 3.6-3 would avoid potential degradation to the quality of the Tuolumne River. The mitigation measures reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measures 3.6-1 through 3.6-3.** Implement these measures as described above.

**Rationale:** The EIR determined that implementation of mitigation measures 3.6-1 through 3.6-3 will ensure that debris and erosion associated with demolition and construction activities is minimized and that trimmings, fluids, trash, and top soil is retained and kept away from inlets, storm drains, and open surface water. With implementation of this measure, impacts to water quality associated with the generation of debris and the loss of topsoil are reduced to less-than-significant levels.

3. **Considerable Cumulative Impacts to Water Quality (Impact 3.6-11):**

   The only other "closely related" project that was identified in the vicinity of the project site was another tree management project to the east and south of TRRP. Similar to the Proposed Project, tree management activities would be subject to applicable guidelines, including the ANSI A300 pruning standards. Tree trimming activities within the TRRP, like the Proposed Project, has the potential to generate debris, erosion, and other pollutants that may damage water quality for wetlands, riverine, and other riparian habitat. [Draft EIR p. 3-118]

**Finding:** Implementation of Mitigation Measures 3.6-1 through 3.6-3 would avoid potential cumulative impacts to water quality in the project area. The mitigation measures reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

**Mitigation Measures 3.6-1 through 3.6-3.** Implement these measures as described above. [Draft EIR p. 3-119]

**Rationale:** Implementation of Mitigation Measures 3.6-1 through 3.6-3 will ensure that debris and erosion associated with demolition and construction activities is minimized and that trimmings, fluids, trash, and top soil is retained and kept away from inlets, storm drains, and open surface water. With implementation of this measure, will reduce impacts to less-than-significant levels, thus avoiding contribution to a cumulatively considerable water quality impact. [Draft EIR p. 3-119]

**D.  Noise**

1. **Expose Persons to Noise Levels in Excess of Local Standards (Impact 3.7-1):** Pruning would occur during the winter season for approximately two
months and would involve the use of hand tools (such as hand saws and chainsaws). Removed tree limbs and other refuse would be loaded onto trucks and removed in accordance with the City of Modesto municipal code pertaining to the collection of pruned refuse. An arborist and crew of 10 to 15 workers would conduct the tree trimming. As described below under Impact 3.7-4, daytime pruning noise levels would be similar to existing noise levels at nearby sensitive receptor locations, but trimming activities would likely be noticeable and a nuisance if they were to occur in the evening or nighttime hours. The following mitigation measure would ensure that noise levels would be reduced to the greatest extent feasible and would limit machinery use to the less noise sensitive daytime hours. [Draft EIR p. 3-130]

Finding: The mitigation measure outlined below would reduce to a less than significant level the project's impacts related to exposure of persons to noise levels in excess of local standards. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measure 3.7-1: Implement Construction-Related Noise Reducing Measures. The applicant shall require the construction contractor to implement the following measures:

- Construction activities shall be limited to the daytime hours between 7:00 a.m. and 7:00 p.m. Monday through Friday to avoid noise-sensitive hours of the day.
- Construction equipment and vehicles shall be equipped with properly operating mufflers according to the manufacturers' recommendations.
- Construction contractors shall locate fixed construction staging area as far as possible from nearby residences.
- Haul routes that affect the fewest number of people shall be selected. [Draft EIR p. 3-130]

Rationale: The EIR determined that Implementation of Mitigation Measure 3.7-1 (construction-related noise reducing measures) would ensure that noise associated with project construction would be reduced to the greatest extent feasible and would comply with applicable standards and regulations that pertain to the Proposed Project. This impact would be less-than-significant. [Draft EIR p. 3-130]

2. Result in a Substantial, Temporary Increase in Ambient Noise Levels (Impact 3.7-4): The ambient noise environment in the immediate project vicinity is defined primarily by noise from Mitchell Road and aircraft operating out of MOD. Existing traffic noise levels on Mitchell Road are approximately 71 dB L. With respect to noise generated by aircraft, homes located south of Tuolumne River are within 60 dB CNEL contour associated with both current (2008) and future (2015) forecasted operations (City of Modesto, 2008). The closest residences to potential tree trimming activities would be
approximately 275 feet away, in the City of Ceres, and would experience noise levels of potentially 61 dBA Lmax. Construction noise at these levels would be similar to existing noise levels at nearby sensitive receptor locations, though trimming activities would likely be noticeable and a nuisance if they were to occur in the evening or nighttime hours. Construction would be short term (approximately 2 months) and intermittent. The use of equipment would be temporary and episodic, affecting only a few nearby receptors for a limited period of time. Overall, the noise generated during short-term construction activities of the Proposed Project would have the potential to result in a substantial increase in noise at the nearest residences. Compliance with City of Modesto and City of Ceres noise ordinances, per Mitigation Measure 3.7-1, would ensure temporary construction noise would be less than significant. [Draft EIR p. 3-131 through 3-132]

Finding: The mitigation measure outlined below would reduce to a less than significant level the project’s impacts related to exposure of persons to a substantial, temporary increase in ambient noise levels. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measure 3.7-2: Implement Mitigation Measure 3.7-1, which calls for a series of construction-related noise reducing measures. [Draft EIR p. 3-132]

Rationale: The EIR determined that implementation of Mitigation Measure 3.7-1 (construction-related noise reducing measures) would ensure that noise associated with project construction would be reduced to the greatest extent feasible and would limit machinery use to the less noise-sensitive daytime hours. This impact would be less-than-significant. [Draft EIR p. 3-132]

3. Result in Cumulatively Considerable Noise Increases (Impact 3.7-8): The only other "closely related" project that was identified in the vicinity of the project site was another tree management project planned by the City of Modesto located east and south of MOD. A cumulative impact arises when two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Cumulative impacts can result from individually minor but collectively significant impacts, meaning that the project’s incremental effects must be viewed in connection with the effects of the past, current and probable future projects. It is assumed that actions associated with the other tree management would be similar to those of the Proposed Project. Specifically, noise generated from the use of tree trimming equipment and vehicles would be of similar levels and short-term. Based on the limited equipment needed for tree trimming and the short-term duration of the Proposed Project, even if other construction activities were to occur in the vicinity of the Proposed Project, compliance with
the applicable local noise ordinances and implementing basic noise controls would ensure that temporary noise exposure due to construction would be less than significant. The Proposed Project would not result in long-term operational activities or noise exposure and would not contribute to the long-term cumulative noise environment. [Draft EIR p. 3-133]

Finding: The mitigation measure outlined below would reduce to a less than significant level the project’s contribution to a potential cumulative impact related to exposure of persons to a substantial, temporary increase in ambient noise levels. The mitigation measure reflects changes or alterations that the City has required, or incorporated into, the project which would avoid or substantially lessen the potentially significant impact as identified in the EIR (State CEQA Guidelines § 15091(a)(1)).

Mitigation Measure 3.7-3: Implement Mitigation Measure 3.7-1, which calls for a series of construction-related noise reducing measures. [Draft EIR p. 3-133]

Rationale: Though the timing of the Proposed Project is unlikely to occur in concert with other tree trimming projects identified in the vicinity of the project area, even if other construction activities were to occur in the vicinity of the Proposed Project, compliance with the applicable City or County standards and implementing basic noise controls would ensure that temporary noise exposure due to construction would be less than significant. Implementation of Mitigation Measure 3.7-1 will further reduce potential cumulative noise impacts to less-than-significant levels. [Draft EIR p. 3-133]

SECTION IV
FINDINGS REGARDING ENVIRONMENTAL IMPACTS THAT ARE SIGNIFICANT AND UNAVOIDABLE

A. Aesthetics

1. Substantial Cumulative Impact to an Aesthetic Resource or the Visual Quality of the Site (Impact 3.1-5): The only other closely related cumulative project that was identified within the vicinity of the Proposed Project was a similar tree management project located east and south of the Proposed Project. Like the Proposed Project, the other tree management project involves pruning or removing of trees that currently obstruct the airports navigable airspace. Due to the more urbanized nature of the areas around TRRP where other trimming activities have occurred, the overall cumulative aesthetic impact that would result from this other closely related project would be less than significant. In the OFA of Runway 28R’s is where we see the most significant impact. The removal of 240 trees will create a visual void and as previously noted, the most significant impact will be to those receptors using Park facilities, and to a lesser degree, it also has the potential to affect receptors south of Tuolumne River and motorists traveling...
southbound on Mitchell Road Bridge. Implementation of Mitigation Measure 3.1-1 would partially reduce this impact by restoring the ecological aesthetic of the project site with other types of native vegetation, however, the overall impact to the visual character of the TRRP would remain significant. Therefore, when considered with the visual impacts associated with the other tree trimming project in the vicinity of the Park, implementation of the Proposed Project would have a significant, cumulative impact to the visual quality of the project site. [Draft EIR p. 3-9]

Mitigation Measures 3.1-5: Impact Significance after mitigation:

See Mitigation Measure 3.1-1

Rationale: Implementation of Mitigation Measure 3.1-1 will reduce the overall visual impact to the TRRP by restoring areas within the project site where a large number of trees are removed with other types of vegetation. Use of approved native plant species will ensure a consistent ecological aesthetic, while also filling in areas that would otherwise be left void of vegetation; thus improving the overall post-project aesthetic condition of the project site. While implementation of this measure would reduce the overall impact the Proposed Project would have on the aesthetic qualities of the TRRP, replacement of trees with other types of native vegetation would not fully address the impact resulting from the loss of mature valley oaks and other types of native trees, which are the most distinctive visual resource within the project site. Therefore, this impact remains significant and unavoidable. [Draft EIR p. 3-10]

2. Adverse Effect on a Scenic Vista (Impact 3.1-1): The Proposed Project is located entirely within the TRRP, which has intrinsic scenic value to various view groups, including recreationalists using the park, area residents, and southbound motorists traveling over Mitchell Road Bridge. Scenic resources within and adjacent to the project site include the native and non-native vegetation associated with TRRP, as well as the Tuolumne River, which is located immediately south of the site. The Proposed Project, however, would require management of native and non-native trees within TRRP. Approximately 999 trees within the Park would require trimming. Of these 999 trees, 240 trees located within the object free area (OFA) for Runway 28R will require removal pursuant to FAA guidelines. Trees which need more than 25 percent of their crown to be removed may also require removal (subject to the assessment of a qualified arborist). Viewer groups that would be most affected by the Proposed Project include users of TRRP, which traverse through the Park via its bike/pedestrian trail system. Homeowners with residences south of the Tuolumne River and north of River Road would be the next most affected user group. However, views of the River from these homes are obscured by existing vegetation and steep terrain that slopes away from the houses. It should also be noted that some of the scenic value of the River in this area has been diminished due to the surrounding development, including homes, the Airport, and the Mitchell
Road Bridge. Trimming of trees within TRRP would not dramatically alter the scenic qualities of the project site. Trees would be trimmed according to all applicable local standards, as well as ANSI A300 guidelines, which call for selective pruning that will preserve the health and appearance of the tree. Removal of the 240 trees within Runway 28R’s OFA, however, constitutes a loss of a valuable scenic resource within the TRRP. While vegetation would naturally grow back in areas where trees have been removed, this process would occur over the course of several years and in the interim, portions of the TRRP where trees were removed from a single, contiguous area would remain empty. While the selective removal of trees would not fundamentally change the nature of the project area, removal of large numbers of trees, particularly from one contiguous area – such as the cluster of trees within MOD’s OFA – would create empty “pockets” within otherwise uninterrupted stretches of native vegetation. The creation of empty pockets of space where there was mature native vegetation previously would have a potentially adverse effect on the aesthetic value of the project area. Implementation of Mitigation Measure 3.1-1, which would require the City to prepare and implement a restoration plan for areas within the project site where large clusters of trees are removed, would help offset some of the visual impact caused by the tree removal. Identified areas would be restored with appropriate native vegetation that would not grow to heights above MOD’s navigable airspace (as defined by FAR 77). However, while removed trees would be replaced at other locations within the TRRP corridor (see Mitigation Measure 3.3-6) and certain areas within the project site would be restored with other types of native vegetation, this would not reduce or avoid the overall aesthetic impact to the Park caused by the removal of trees from contiguous areas within the project site. Given the extent of the trees that would be removed from the TRRP, and the aesthetic impact that would be caused by the creation of empty areas or pockets where vegetation had been removed, potential impacts to a scenic vista as a result of the Proposed Project are considered significant. [Draft EIR p. 3-5 through p. 3-6]

Mitigation Measures 3.1-1: Prepare and Implement a Post-Project Re-vegetation Restoration Plan. Following completion of the Proposed Project, the City, with the assistance of a qualified biologist or landscape architect, will prepare a re-vegetation restoration plan for locations indicated on Figure 3.1-2 [Draft EIR p. 3-7], where a substantial number of trees would be removed from a single contiguous area. Selected plant species, such as shrubs and grasses, will be chosen based upon their ability to conform with applicable height standards established in FAR Part 77: Objects Affecting Navigable Airspace, and will be consistent with the approved plant palette for TRRP, as provided in Appendix A of the Tuolumne River Regional Park Master Plan. A draft copy of the post-project vegetation restoration plan will be submitted to the TRRP Joint Powers Authority for review and approval prior to its implementation. Implementation of the re-vegetation plan shall occur within one growing season following the completion of maintenance activities. [Draft EIR p. 3-6]
**Rationale:** Implementation of Mitigation Measure 3.1-1 will reduce the overall visual impact to the TRRP by restoring areas within the project site where a large number of trees are removed with other types of vegetation. Use of approved native plant species will ensure a consistent ecological aesthetic, while also filling in areas that would otherwise be left void of vegetation, thus improving the overall post-project aesthetic condition of the project site.

While implementation of this measure would reduce the overall impact the Proposed Project would have on the aesthetic qualities of the TRRP, replacement of trees with other types of native vegetation would not fully address the impact resulting from the loss of mature valley oaks and other types of native trees, which are the most distinctive visual resource within the project site. Therefore, this impact remains significant and unavoidable. [Draft EIR p. 3-6]

### 3. Degrade Existing Visual Character or Quality of the Site (Impact 3.1-3)

As previously discussed in 3.1-1, generally the visual character quality of TRRP will not be affected, but there is one area located within Runway 28R's OFA, where 240 trees have been identified for removal. This will create an empty space, void, and would affect the scenic value of the Park, which is characterized as a densely wooded area largely made up of mature valley oaks. Despite the measures taken regarding re-vegetation, the impact to the visual quality of the Park areas closest to the Airport resulting from the loss of valley oaks and other native trees would remain permanent. Therefore, the impact of the visual character of the project site is considered significant and unavoidable. [Draft EIR p. 3-8]

**Mitigation Measures 3.1-3: Impact Significance after mitigation:**

See Mitigation Measure 3.1-1

**Rationale:** Implementation of Mitigation Measure 3.1-1 will reduce the overall visual impact to the TRRP by restoring areas within the project site where a large number of trees are removed with other types of vegetation. Use of approved native plant species will ensure a consistent ecological aesthetic, while also filling in areas that would otherwise be left void of vegetation; thus improving the overall post-project aesthetic condition of the project site. While implementation of this measure would reduce the overall impact the Proposed Project would have on the aesthetic qualities of the TRRP, replacement of trees with other types of native vegetation would not fully address the impact resulting from the loss of mature valley oaks and other types of native trees, which are the most distinctive visual resource within the project site. Therefore, this impact remains significant and unavoidable. [Draft EIR p. 3-08 through p. 3-09]
SECTION V
FINDINGS REGARDING PROJECT ALTERNATIVES

A. Background

Section 15126.6 of the State CEQA Guidelines requires EIRs to consider and discuss alternatives to the proposed actions. Subsection (a) states:

(a) An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Subsection 15126.6(b) states the purpose of the alternatives analysis:

(b) Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

In Subsection 15126.6(c), the State CEQA Guidelines describe the selection process for a range of reasonable alternatives:

(c) The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.
The range of alternatives required is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. Alternatives are limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.

The project seeks to achieve the following key objectives [Draft EIR p. 2-3]:

1. Provide a safe environment for air travelers and people who live and work in the vicinity of the Airport;
2. Comply with FAR Part 77: Objects Affecting Navigable Airspace; and,
3. Maintain object-free airspace while responsibly managing and preserving the environment within TRRP and particularly along the Tuolumne River.

The City evaluated a total of three alternatives in detail. Those alternatives are:

- **No Project Alternative** [Draft EIR pp. 4-2 through 4-4]
- **Complete Tree Removal Alternative** [Draft EIR pp. 4-5 through 4-7]
- **Only Twenty-Five Percent Trim Alternative** [Draft EIR pp. 4-7 through 4-10]

A complete discussion for alternatives that were considered in detail is provided below.

**B. Alternatives Considered in Detail in the EIR**

The following project alternatives were considered in detail in the EIR. These alternatives are rejected for various reasons as set forth below.

1. **No Project Alternative**

Under the No Project Alternative, the Proposed Project site would remain in its current condition. Trees that currently obstruct MOD’s navigable airspace would not be trimmed or removed, and these hazards would remain in place. The No Project Alternative was selected to fulfill the requirements of CEQA Section 15126.6(3). [Draft EIR p. 4-2]

**Finding:** Based upon the Supporting Explanation below, the City Council rejects the No Project Alternative because it does not comply with the project objectives of providing a safe environment for air travelers and people who live and work in the vicinity of the Airport; complying with FAR Part 77: Objects Affecting Navigable Airspace; and maintaining object-free airspace.
Supporting Explanation: The No Project Alternative would have no effect on the existing environment. With no trimming or removal activities, trees would be left in their existing state. While this would have an overall neutral effect on the environment, as compared to the Proposed Project, the No Project Alternative would also allow objects that are considered obstructions to MOD's navigable airspace to remain in place. In their current state, these trees constitute hazards to aircraft operating at the Airport. As a Primary commercial service airport in the FAA's National Plan of Integrated Airport Systems (NPIAS), the City is obligated to maintain MOD's airspace in compliance with operating regulations set forth in Federal Aviation Regulations (FARs); specifically FAR Part 77: Objects Affecting Navigable Airspace, which identifies the criteria that are used to define obstructions for airports and their surrounding airspace. Therefore, while there would be no effect on the environment, because it allows obstructions to navigable airspace to remain in place, the No Project Alternative would not obtain any of the Proposed Project's objectives and is therefore infeasible. [Draft EIR p. 4-4]

2. Complete Tree Removal Alternative

This alternative assumes that all trees identified as obstructions within MOD's navigable airspace would be removed [Draft EIR p. 4-4]

Finding: Based upon the Supporting Explanation below, the City Council rejects the Complete Tree Removal Alternative because it does not meet maintaining an object-free airspace while responsibly managing and preserving the environment within TRRP and surrounding areas; particularly the Tuolumne River.

Supporting Explanation: The Complete Tree Removal Alternative would result in the complete removal of the 999 trees that have been identified as obstructions to MOD's navigable airspace and would impact the scenic quality of the project site, which resides within a portion of TRRP. Complete removal of these trees would have a significant impact to the visual quality of the project site for viewer groups using the TRRP, as well as viewer groups located in the residential area to the south of the Proposed Project site. While a large number of trees that have not been identified as obstructions would remain within the project area, the removal of nearly one thousand trees that provide scenic value to TRRP and is a natural part of the ecological aesthetic of the Tuolumne River environs would be a significant impact. Therefore, overall impacts to aesthetic resources as a result of Alternative B are considered greater than the Proposed Project. [Draft EIR p. 4-5 through p. 4-6]

3. Only Twenty-Five Percent Trim Alternative

This alternative would trim all 999 trees identified for maintenance under the Proposed Project. However, under this alternative, trees would have no more than twenty-five percent of their crowns removed, thus eliminating the potential need to remove any trees from the project site. As a result of only the twenty-five percent trim, trees currently requiring more than twenty-five of their crown to be removed in order to meet FAA height standards (as defined by FAR Part 77) would remain obstructions to MOD's navigable airspace. The 240 trees located within Runway 28R's OFA, however, would still be removed in order to comply with FAA safety standards under this Alternative. [Draft EIR p. 4-7 through p. 4-8]
**Finding:** Based upon the Supporting Explanation below, the City Council rejects the Only Twenty-Five Percent Trim Alternative because it would only be able to partially meet the City's three objectives. While trimming up to twenty-five percent of a tree's respective crown may avoid or reduce some environmental impacts and remove some identified obstructions, this alternative would fail to remove all the trees obstructing MOD's navigable airspace.

**Supporting Explanation:** The Only Twenty-Five Percent Trim Alternative would avoid or reduce some of the impacts generated under the Proposed Project. Furthermore, by trimming twenty-five percent of a tree's crown, this alternative would remove some of the obstructions that have been identified within the project site. However, constraining the trimming of trees to only twenty-five percent of their crowns would also mean that some trees would continue to obstruct MOD's navigable airspace. As such, MOD would not be in full compliance with the standards set forth in FAR Part 77. Therefore, this Alternative is less feasible than the Proposed Project. [Draft EIR p. 4-11]

**SECTION VI
STATEMENT OF OVERRIDING CONSIDERATIONS**

Because the Project will result in significant and unavoidable environmental impacts, CEQA requires the City Council to balance the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the Project against the unavoidable environmental risks, when determining whether to approve the Project. If the City Council finds that the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the Project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered “acceptable.” (CEQA Guidelines, §15093.) When the City Council approves a Project that will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the City Council must adopt a Statement of OVERRIDING considerations stating the specific reasons to support its action based on the final EIR and/or other information in the record in a Statement of OVERRIDING Considerations. The City Council hereby finds as follows:

**The Modesto City-County Airport is a Primary Commercial Service Airport. The owner of such an airport is obligated to maintain airspace regulated by the FAA. Any navigable airspace obstruction can cause decreased FAA approach and departure designs which would be detrimental to commercial and general aviation aircraft operations. A reduced approach/departure design would cause negative impacts to the area and region’s economy because a reduced design limits aircraft operations. Limiting aircraft operations can have direct economic impacts to aviation businesses located on and off airport property and indirect negative impacts to businesses supplying services to the airport and its tenants.**
The project will trim or remove all trees that penetrate FAR Part 77. This project will help comply with FAA FAR Part 77 - Objects Affecting Navigable Airspace and will enhance the safety, health and welfare of the public, surrounding community/neighbors, aviators and aircraft/equipment. Trimming and removing methods would adhere to mitigation measure 3.1-1 and follow guidelines established in the vegetation management plan and the American National Standard for pruning.

Despite the application of all available mitigation measures, the Project will result in significant and unavoidable adverse impacts to aesthetics as set forth above. The City Council finds that the specific economic, legal, social, and technological benefits of the Project, set forth above, outweigh the significant and unavoidable adverse environmental impacts of the Project, and, therefore, the significant and unavoidable adverse impacts of the Project are considered "acceptable."

SECTION VII
CERTIFICATION OF EIR

The City Council finds that it has reviewed and considered the Final EIR and all other information available in the administrative record in evaluating the project, that the EIR is an accurate and objective statement that fully complies with the Public Resources Code and the State CEQA Guidelines, and that the EIR reflects the independent judgment of the City Council. The City Council consequently certifies the EIR.

The City Council finds that no new significant information as defined by State CEQA Guidelines Section 15088.5 has been received by the City after circulation of the Draft EIR nor added by the City to the EIR that would require recirculation.

The City Council certifies the EIR based on, without limitation, the following finding and conclusions:

1. The significant environmental impacts set forth in Section IV of this Resolution have been identified in the EIR and will require mitigation, which will reduce potential impacts to less-than-significant levels, with the exception of the significant and unavoidable impacts identified herein.

2. There are no feasible alternatives or mitigation measures available that will avoid or substantially reduce the significant and unavoidable impacts of the Project.
3. Other reasonable alternatives to the proposed project that could feasibly achieve the basic goals and objectives of the project have been considered and rejected in favor of the proposed Tuolumne River Regional Park Obstruction Management Project.
RESOLUTION APPROVING A FIRST AMENDED AND RESTATED JOINT POWERS AGREEMENT BETWEEN THE DEL PUERTO WATER DISTRICT, THE CITY OF TURLOCK, AND THE CITY OF MODESTO FOR THE NORTH VALLEY REGIONAL RECYCLED WATER PROGRAM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on November 25, 2014, the City Council, by Resolution No. 2014-491, approved a Joint Powers Agreement (JPA) between the Del Puerto Water District (DPWD) to advance the North Valley Regional Recycled Water Program (NVRRWP), and

WHEREAS, the original JPA did not include the City of Turlock, who is also a partner in the NVRRWP, due to institutional delays, and

WHEREAS, the City of Turlock has resolved the issues of delay and has successfully negotiated with the NVRRWP partners DPWD and the City of Modesto for inclusion in the JPA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amended and Restated Joint Powers Agreement between the Del Puerto Water District, the City of Turlock, and the City of Modesto for the North Valley Regional Recycled Water Program.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the First Amended and Restated Joint Powers Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2015, by Councilmember Lopez, 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: Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney