RESOLUTION AMENDING SECTION 6 AND 16 OF THE HOUSING AND URBAN DEVELOPMENT POLICIES & PROCEDURES MANUAL

WHEREAS, in order to align with current program guidelines and replace older program policies, Section 6 (Housing Rehabilitation Program), and Section 16 (Four Factor Analysis for Limited English Proficient Persons and Language Assistance Plan) needed to be updated, and

WHEREAS, the updated Housing Rehabilitation Program Policies & Procedures included as Attachment 1, and Four Factor Analysis for Limited English Proficient Persons and Language Assistance Plan included as Attachment 2, and

WHEREAS, to update Section 6 of the Housing Rehabilitation Program Policies and Procedures, Section 4.5.5 Homeowner Eligibility – the Housing Rehabilitation Loan Committee (HRLC) will consider applications on a case by case basis, and

WHEREAS, the HRLC will have the discretion to consider any extenuating circumstances for a homeowner who may not meet the Homeowner Eligibility Guidelines and may decide to approve the application a based on such extenuating circumstances, and

WHEREAS, applicants with Debt to income ratios outside the limits established within these policies may be considered for assistance if the Debt to Income ratio is within 10% of the current Homeowner Rehabilitation Program Policies & Procedures guidelines, and

WHEREAS, applicants who have defaulted on payments, but a payment plan have been established, and applicant is current on those payments, and
WHEREAS, to update Section 16 Four Factor Analysis for Limited English Proficient Persons and Language Assistance Plan, and

WHEREAS, Section 6 – Limited English Proficient persons (LEP) updates to translation services, outreach, training and monitoring to ensure compliance with the HUD Office of Fair Housing and Equal Opportunity Voluntary Compliance Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends Section 6 and 16 of the Housing and Urban Development Policies & Procedures Manual.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
Section 6
Homeowner Rehabilitation Program Policies & Procedures

City of Modesto
Community Development Division
1010 10th Street, Suite 3100, Modesto, CA 95354
(209) 577-5211, TDD 209-
housing@modestogov.com

Citizens Housing and Community Development Committee (CH&CDC) Approved October 12, 2017
City of Modesto City Council Approved by Resolution 2017-427 on November 8, 2017

*These policies supersede any previously adopted policies and are subject to review and revision by the City of Modesto Housing Rehabilitation Loan Committee.

EQUAL HOUSING OPPORTUNITY
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Homeowner Rehabilitation Program Policies & Procedures

1.0 APPLICABLE LAWS AND REGULATIONS

1.1 All Housing Rehabilitation Program activities shall be conducted in accordance with all applicable federal, state, and local program funding standards, building codes, and zoning ordinance requirements.

1.2 All work conducted in accordance with an approved Housing Rehabilitation Program activity shall be consistent with program funding requirements and any locally approved repair and replacement standards including, but not limited to: site improvements, windows and doors, roofing, ventilation, electrical, plumbing systems, HVAC, accessibility, and abatement of hazardous materials (i.e. mold, lead based paint, etc).

1.3 All terms used within these policies shall be as defined by applicable funding source(s) or other locally approved Housing Rehabilitation Program policies and/or standards.

1.4 All program applications will be processed in accordance to the date of receipt of a complete application and are subject to available funding.

2.0 ELIGIBLE REPAIRS (in order of priority)

2.1 Health and Safety repairs as determined by utilization of the City of Modesto HUD Housing Quality Standards (HQS) inspection analysis.

2.2 Spot Rehabilitation Eligible non-health and safety related repairs (e.g. - required by State or local Building Code).

Accessibility Repairs to make the home accessible for disabled household members.

2.3 Energy Efficiency Improvements may be conducted along with any of the eligible repairs listed above. Energy efficiency improvements may include, but are not limited to:

2.3.1 Replacing single pane windows with double pane windows;
2.3.2 Replacing antiquated water heater;
2.3.3 Replacing antiquated HVAC system;
2.3.4 Weatherization improvements.

2.4 Applicant Must Exhaust All Other Available Funding Sources in order to comply with program funding requirements, the applicant must exhaust all other viable program alternatives/resources that may provide assistance to address any of the above eligible repairs. The Housing Finance Specialist in coordination with the Housing Rehabilitation Specialist shall conduct a resource coordination analysis to ensure the applicant has taken advantage of any other resources that may be available prior to receiving assistance via the City of Modesto’s Housing Rehabilitation Program.

3.0 PROPERTY ELIGIBILITY:

3.1 The assisted property shall be located within the city limits of the City of Modesto.
3.2 The assisted property shall contain a legal residential structure intended for continued residential occupancy and meet applicable rehabilitation standards and ordinances at the time of project completion.

3.3 A manufactured home (mobile home) in a mobile home park or on leased land that is not on a permanent foundation may only qualify for a grant as allowed under Section 9.0 MANUFACTURED HOMES Section of these policies.

3.4 The assisted property shall be owner-occupied and shall be the principal place of residency of owner-occupants (hereafter "Borrowers") and hold legal title to the property.

4.0 HOMEOWNER ELIGIBILITY:

4.1 All Borrower households shall have incomes at or below 80 percent (80%) of the Stanislaus County Area Median Income (AMI), adjusted for household size, as published annually by the California State Department of Housing and Community Development (HCD) or United Stated Department of Housing and Urban Development (HUD). The applicable AMI shall be as required by available funding source(s).

4.2 Borrowers without a mortgage shall demonstrate a debt-to-income ratio sufficient to allow for the on-going annual payments of property tax and any insurance required as a result of the Housing Rehabilitation Program assistance.

4.3 Borrowers with a mortgage shall show that all mortgage, property tax, and insurance payments are current, with no late payments having been received within the past twelve months, and meet both of the following debt-to-income ratios:

4.3.1 Front end (housing) debt-to-income ratio shall not exceed 35 percent (35%) and is the percentage of a Borrower's gross monthly income (before deductions) that would cover the cost of the loan principal and interest payment, property taxes, property insurance, mortgage insurance, and HOA dues, if any.

4.3.2 Back-end (total debt obligation) debt-to-income ratio shall not exceed 45 percent (45%), and is the percentage of the borrower's gross monthly income that includes the cost of housing as described in Section 4.0 C-the Front End ratio above, plus any other monthly debt payments such as car loans, personal loans, credit card debt, or child support and alimony payments.

4.4 Credit Report and Liabilities

4.4.1 The Housing Financial Specialist (HFS) must obtain a signed "Authorization to Verify Information" and/or "Eligibility Release Form" from the applicant authorizing the City to pull a credit report, or to verify any information with a third party.

4.4.2 The HFS shall pull the applicant(s) credit report within three business days of determining income eligibility. The HFS shall order a credit report through the City of Modesto's secure account held with a major credit bureau (e.g. Equifax, Experian, or Transunion). A credit report shall be pulled for all program applicants.

4.4.3 If the applicant is eligible for a deferred payment loan, the credit report should be reviewed to determine if any public liens will be in prior position to the City loan, or to compare the applicant's actual credit liabilities with the liabilities listed on the application. The credit report should be used for verification of information. The
credit score is not relevant for a deferred payment loan. Debt-to-income guidelines should be used to demonstrate the household's ability to continue to live in the home.

4.4.4 If the applicant is eligible for an amortized loan, the credit report should be analyzed for a credit score, verification of debts, and ability and willingness to repay the loan. The HFS shall use debt-to-income ratios allowable under this policy as a guideline for payment affordability. If the household income is non-taxable, income can be grossed up for non-taxability, using the 25% guideline. If the payment is not affordable or a hardship exists, the HFS should discuss this with management and obtain guidance on how to proceed.

4.4.5 Special Note: Household income must be collected on all qualifying adult household members per HUD guidelines. However, only the credit liabilities of the applicant will be used in the credit liability calculation. Adult members of the household who are not on title are not a party to the loan transaction.

4.5 Borrowers shall meet the following credit worthiness criteria:

4.5.1 No outstanding judgments or liens at the time of loan approval or loan execution. As part of application for assistance, Borrower shall disclose any personal liens that may attach to the property. Failure to disclose any pertinent information that may affect eligibility may be grounds for denial of assistance and application withdrawal. To identify any personal liens, a Judgment and Tax Lien Guarantee search of Borrowers and Preliminary Title Report search on the property shall be conducted after Housing Rehabilitation Loan Committee (HRLC) approval.

4.5.2 Outstanding collections must be paid prior to HRLC approval, unless the HRLC determines, on a case by case basis, that the circumstances that led to collection were outside of the applicant's control, and the payment of the outstanding collection(s) will not impact the applicant's ability to financially retain ownership.

4.5.3 Late payments due to extenuating circumstances will be considered as part of the approval process. Factors leading to late payments will be reviewed and considered on a case by case basis.

4.5.4 Borrower shall not have filed bankruptcy, or received a bankruptcy discharge, in the last three (3) years prior to date of application.

4.5.5 Homeowner Eligibility – the Housing Rehabilitation Loan Committee (HRLC) will consider applications on a case by case basis. The HRLC will have the discretion to consider any extenuating circumstances for a homeowner who may not meet the Homeowner Eligibility Guidelines and may decide to approve the application a based on such extenuating circumstances.

4.5.5.1 Applicants with Debt to Income ratios outside the limits established within these policies may be considered for assistance if the Debt to Income ratio is within 10% of the current Homeowner Rehabilitation Program Policies & Procedures guidelines.

4.5.5.2 Applicants who have defaulted on their property taxes may be considered for assistance if a payment plan has been established with the Stanislaus County Treasurer/Tax Collector's Department and applicant is current on those payments.

4.6 If at any time the Borrowers filed bankruptcy that resulted in a discharge of any debt owed to City of Modesto, or the former City of Modesto Redevelopment Agency, for housing rehabilitation or down payment assistance, the HRLC shall evaluate the circumstances of the bankruptcy in order to determine if further assistance may be provided without further risk to funding investment.
4.7 Borrowers shall not be a person, or the immediate family of any person, who is in a decision-making position relative to the Housing Rehabilitation Program.

4.8 Process:
4.8.1 Housing Finance Specialist determines general program eligibility, including income limits and lending loan-to-value ratios along with a process to determine all other funding opportunities have been explored/exhausted (technical assistance);
4.8.2 Housing Rehabilitation Specialist determines properties needs via Housing Quality Standards (HQS) inspection (pre-1978 visual Lead Based Paint Inspection conducted);
4.8.3 Housing Rehabilitation Specialist scope of work via Rehab Pro Direct to supervisor;
4.8.4 HRLC reviews for consideration and approval of the overall project proposal;
4.8.5 Housing Rehabilitation Specialist processes approved projects through the bid process;
4.8.6 Application inquiry through program completion within 90-days, unless there are extenuating circumstances beyond staff control (e.g. – rain delays);
4.8.7 Quarterly program updates provided to HRLC.

5.0 MAXIMUM AMOUNT OF PROGRAM ASSISTANCE (24 CFR 570.208 (a)(3);(b), and 24 CFR 570.202):

5.1 An eligible Borrower may qualify for the full cost of rehabilitation/reconstruction work needed to address any Eligible Repairs outlined in Section 2.0ELIGIBLE REPAIRS Section, and/or comply with state and local codes and ordinances; however, the maximum assistance shall not exceed any maximum subsidy established by the funding source(s) utilized to fund the project.

5.1.1 Reconstruction shall only be authorized when the cost of rehabilitation will exceed 75 percent of the current estimated value of the property, as determined by the Housing Financial Specialist;
5.1.2 Loan amount is determined by the repairs/modifications that are required or eligible, as requested and approved by the owner, Community Development Manager or his/her designee.
5.1.3 Maximum amounts are as follows:
   5.1.3.1 Grants up to $10,000 require HRLC acknowledgement in order for staff to proceed;
   5.1.3.2 Loans up to $49,999 require HRLC approval in order for staff to proceed;
   5.1.3.3 Loans of $50,000 or more require HRLC approval and subsequent City Council approval in order for staff to proceed.
5.1.4 Additional loans may be granted within applicants overall loan-to-value ratios;
5.1.5 Emergency repairs of up to $5,000 may be authorized by the Director of Community and Economic Development if it poses an “extreme health and safety related emergency (e.g. – plumbing or electrical hazards).

6.0 MAXIMUM AFTER REHABILITATION VALUE

The after rehabilitation value of a home assisted under this program shall not exceed 100% of the current median sales price of a single family home listed for the City of Modesto. This information may be obtained by collecting comparable sales data from sources including but not limited to Zillow, Trulia, Data Quick, Realty Trac, Real Quest, Epraisal.com, or FHA 203(b) loan limits. If necessary, the after rehabilitation value may be determined by ordering a professional appraisal. An After Rehabilitation Value Limit Worksheet must be completed and certified by the housing rehabilitation specialist and placed in the project file.
7.0 **MAXIMUM COMBINED LOAN TO VALUE RATIO:**

**7.1** For CDBG funded loans, the total indebtedness against the assisted property shall not exceed 100% of the estimated after-rehabilitation value of the property as determined by “Estimates of Value” conducted by program staff using a Comparable Sales Approach, or an appraisal by a licensed appraiser if required by funding source.

**7.2** For CalHome funded loans, the total indebtedness against the assisted property shall not exceed 100% of the estimated after-rehabilitation value of the property as determined by “Estimates of Value” conducted by program staff using a Comparable Sales Approach, or an appraisal by a licensed appraiser if required by funding source. An additional 5% maximum may be allowed, if allowed by funding source, to cover any eligible closing costs.

**7.3** As part of application for assistance, Borrower shall disclose any personal liens that may attach to the property (failure to disclose any pertinent information that may affect eligibility may be grounds for denial of assistance and application withdrawal). To determine the total indebtedness assigned against the property, a title search of the property and Borrowers (for the purpose of verifying any personal liens that may attach to the property) shall be conducted after HRLC project approval.

**7.4** An “Estimates of Value” using a Comparable Sales Approach shall be based on the sale prices of at least three (3) comparable properties, sold within the last twelve months and located within a one mile radius of the subject property. Any alternative methodology for determining estimated value must be approved by the HRLC.

**7.5** In the case of a reconstruction, as allowed under Section 5.0:A: MAXIMUM AMOUNT OF PROGRAM ASSISTANCE Section, the HRLC may consider approval of projects that exceed the CLTV limit of Section 7.0:A. or 7.0:B. provided all other criteria for assistance is met and the City of Modesto will be in first lien position.

8.0 **RATES AND TERMS OF PROGRAM ASSISTANCE:**

**8.1** Eligible homeowners may receive a deferred payment loan evidenced by a Promissory Note and secured by a Deed of Trust, with no payback required for 20 years unless the borrower sells or transfers title or discontinues residence in the dwelling.

**8.2** The following rates (simple interest) shall apply on City of Modesto housing rehabilitation loans, based on the household’s Area Median Income (AMI) level:

<table>
<thead>
<tr>
<th>AMI</th>
<th>Interest Rate (simple interest)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-50%</td>
<td>0%</td>
</tr>
<tr>
<td>51-80%</td>
<td>3%</td>
</tr>
</tbody>
</table>

**8.3** City of Modesto may accept voluntary payments on deferred loans. Loan payments will be credited to the principal first and then to interest. The borrower may repay the loan balance at any time with no pre-payment penalty. If it is determined by the City of Modesto that repayment of the loan at the maturity date causes a hardship to the homeowner, the City of Modesto may opt, with HRLC approval, the following:

**8.3.1** Amend the Promissory Note and Deed of Trust to defer repayment of the amount due at maturity, that is the balance of the original principal plus the accrued interest, for up
to an additional 20 years (at 0 percent additional interest). This may be offered one time; or,

8.3.2 Convert the debt to loan maturity; that is the balance of the original principal plus any accrued interest, to an amortized loan, repayable in 20 years at 0 percent additional interest.

8.4 Assistance to households with AMI levels between 81% and 120% may only be available if funding source allowing said limits is available. The following terms shall apply to loans made to households with AMI levels between 81% and 120%:

8.4.1 20 year Loan with monthly payments
8.4.2 3% simple interest
8.4.3 Must meet Debt to Income Ratio limits specified in Section 4.HOMEOWNER ELIGIBILITY SECTION.

8.5 In the event that a homeowner sells, transfers title, or discontinues residence in the rehabilitated property for any reason, the loan shall become due and payable.

8.6 Any other transfer of interest, due to homeowner death or other circumstances shall be subject to the requirements of the funding source(s) and shall be defined within the Promissory Note and/or Deed of Trust.

8.7 The HRLC may approve a request to subordinate a loan, in order for the owner to refinance the property. Refer to City of Modesto Subordination Policy for subordination approval criteria.

9.0 MANUFACTURED HOMES:

9.1 Assistance to manufactured homes on a non-permanent foundation will be provided as follows:

9.1.1 The total assistance provided to a manufactured home shall not exceed $20,000 (combined total of all grants, if multiples).
9.1.2 Assistance to manufactured homes will be a one-time grant, subject to available funding allowing for grants.
9.1.3 Replacement shall only be considered when the cost of rehabilitation will exceed 75 percent of the current estimated value of the property, as determined by the Housing Financial Specialist.

10.0 BID SOLICITATION:

10.1 A detailed scope of work and project independent cost estimate developed by the Housing Rehabilitation Specialist (HRS) based on eligible repairs as listed in ELIGIBLE REPAIRS Section 2.0, shall be prepared and entered into Rehab Pro Direct prior to consideration for HRLC and bid submittal. The Scope of Work shall be approved by the Housing and Urban Development Supervisor and Borrower.

10.1.1 The independent cost estimate shall be established utilizing local market data and published construction cost guidelines.
10.1.2 The Housing and Urban Development Supervisor will review the independent cost estimate prepared by the HRS to ensure the cost estimate is reasonable based on local market data. See section 14.0 COST REASONABleness Section for further details on Cost Reasonableness.
10.2 To comply with HUD requirements, a minimum of three bids by California Licensed Contractors shall be obtained prior to bid approval consideration. The City of Modesto will make every attempt to obtain the highest number of bids possible for every project.

10.3 Bids in excess of 15% of the HRLC approved amount must be brought back to HRLC for approval consideration.

10.3.1 If determined appropriate by Housing Rehabilitation Specialist, bids solicitations may be requested from multiple contractors with different disciplines (i.e. general, electrical, roofing, and plumbing, etc.). This approach may be considered as a cost savings measure, if approved by the Housing and Urban Development Supervisor.

11.0 PROCUREMENT

11.1 Procurement projects under this program will occur after Housing Rehabilitation Loan Committee project approval. The HRLC will approve each project based on Housing Rehabilitation Cost Estimates. Upon project approval, project procurement will occur in alignment with the 15% cost reasonableness rule identified in Section 14.0 COST REASONABLENESS Section.

11.2 Projects procured under the Homeowner Rehabilitation Program will be conducted in a manner that promotes full and open competition and avoid arbitray action in the procurement process. The following procurement process will be followed by the City:

11.2.1 Procurement of contractors or other services related to the development of housing through either new construction or rehabilitation must be made on the basis of soliciting competitive bids. Advertisements for bids must include the following language: "This is a HUD funded project; Section 3 businesses and/or business that employ Section 3 residents are encouraged to respond."

11.2.2 The projects will be publicly advertised through the City's PlanetBid system, when timing permits. All contractors registered on the City's PlanetBid system will receive notification of project availability.

11.2.2.1 The Community Development Division will notify prospective bidders, when feasible, to encourage as wide a response as possible.

11.2.3 The bid solicitation will include a brief scope of work description, project address, date of mandatory walkthrough, and date bids are due.

11.2.4 Contracts will be awarded to responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement. Non-responsible contractors will not be allowed to bid on City projects under this program for a the duration of the program year.

11.2.5 Rehabilitation projects below $50,000:

11.2.5.1 Contracts under $50,000 are considered a "Small Purchase" under the City's purchasing policies and HUD's procurement guidelines.

11.2.5.2 The policy aligns with OMB Guidance Section 200.319 and 200.320
11.2.5.3 Projects under $50,000 shall be purchased with three quotes, with public advertising through PlanetBid, if time permitted.

11.2.5.4 The mandatory walkthrough will take place eight (8) business days from the date of bid posting. Contractors will have the opportunity to view project items to be repaired and ask any questions for clarification of bid specifications.

11.2.5.5 Depending on the nature of questions addressed and clarification provided at the mandatory walkthrough, the Housing Rehab Specialist (HRS) may need to amend the project’s Scope of Work. If this occurs, the HRS will issue an amended Scope of Work and release to all contractors who attended the mandatory walkthrough.

11.2.5.6 Bid proposals from contractors will be due 8 calendar days from the mandatory walkthrough.

11.2.5.7 All bids from contractors must be sent via email to housing@mcedestogov.com, or dropped off in person to 1010 10th Street, Suite 3100, Modesto CA 95354

11.2.5.8 All bids will be reviewed by a program supervisor (e.g. HUD Supervisor or Senior Community Development Program Specialist) and recorded by a program specialist (e.g. Housing Financial Speciallist or Housing Rehab Specialist).

11.2.5.9 The HRS will summarize the lowest responsible bid results on the “Work Specification” document

11.2.5.10 If less than three written quotes are obtained, an exception may be granted with justification documented and approved by the Purchasing Manager.

11.2.6 The applicant will be required to accept the lowest responsible bid with certain exceptions. Rejection of the low bidder without cause will result in cancellation of the project.

11.2.6.1 If on the basis of references, or the inability to start work within a reasonable timeframe, the property owner request to reject the low bidder, he/she must do so in writing. Upon confirmation of the reason for rejection by City staff, the low bidder will be rejected, and the next lowest bidder will be considered.

11.2.7 Upon selection of lowest responsible bidder, the HRS will prepare the respective documents for contractor, homeowner signatures, and City signatures (e.g. Housing Rehabilitation Contract and Grant/Loan Documents).

11.2.8 Once contracts are executed, City Staff will record loan documents with the Stanislaus County Recorder’s Office.

11.2.9 Upon receipt of recorded documents, the HFS will:

11.2.9.1 Issue a Notice to Proceed to the contractor. The contractor will have seven (7) calendar days to begin work from the date of issuance.

11.2.9.2 Route contracts for encumbrance the City’s financial system.
11.3 Rehabilitation Projects over $50,001:

11.3.1 In alignment with the City’s Procurement policy, all projects in excess of $50,001 will require HRLC approval and subsequent City Council approval, and must follow the City’s Formal Bids/Proposals policy process as follows:

11.3.1.1 Projects over $50,01 shall be purchased with through the sealed bid process with obtaining three quotes, with public advertising through PlanetBid.

11.3.1.2 Procurement of contractors or other services related to the development of housing through either new construction or rehabilitation must be made on the basis of soliciting competitive sealed bids. Advertisements for bid must include the following language: “This is a HUD funded project; Section 3 businesses and/or business that employ Section 3 residents are encouraged to respond.”

11.3.1.3 The projects will be publicly advertised through the City’s PlanetBid system. All contractors registered on the City’s PlanetBid system will receive notification of project availability.

11.3.1.3.1 The Community Development Division will notify prospective bidders, when feasible, to encourage as wide a response as possible.

11.3.1.3.2 The mandatory walkthrough will take place eight (8) business days from the date of bid posting. Contractors will have the opportunity to view project items to be repaired and ask any questions for clarification of bid specifications.

11.3.1.5 Depending on the nature of questions addressed and clarification provided at the mandatory walkthrough, the Housing Rehab Specialist (HRS) may need to amend the project’s Scope of Work. If this occurs, the HRS will issue an amended Scope of Work and release to all contractors who attended the mandatory walkthrough.

11.3.1.6 Sealed bids from contractors will be due sixteen (16) calendar days from the mandatory walkthrough at the following location: 1010 10th Street, Suite 3100, Modesto CA 95354.

11.3.1.7 The bid opening will be held in a public forum at a City location announced in the Bid solicitation.

11.3.1.8 All bids will be opened by a program supervisor (e.g. HUD Supervisor or Senior Community Development Program Specialist) and recorded by a program specialist (e.g. Housing Financial Specialist or Housing Rehab Specialist).

11.3.1.9 The HRS will summarize the lowest responsible bid results on the “Work Specification” document provided to the homeowner.

11.3.2 The applicant will be required to accept the lowest responsible bid with certain exceptions. Rejection of the low bidder without cause will result in cancellation of the project.
11.3.2.1 If on the basis of references, or the inability to start work within a reasonable timeframe, the property owner request to reject the low bidder, he/she must do so in writing. Upon confirmation of the reason for rejection by City staff, the low bidder will be rejected, and the next lowest bidder will be considered.

11.3.3 Upon selection of lowest responsible bidder, the HRS will prepare the respective documents for contractor, homeowner signatures, and City signatures (e.g. Housing Rehabilitation Contract and Grant/Loan Documents).

11.3.4 Once contracts are executed, City Staff will record loan documents with the Stanislaus County Recorder's Office.

11.3.5 Upon receipt of recorded documents, the HFS will:

11.3.5.1 Issue a Notice to Proceed to the contractor. The contractor will have seven (7) calendar days to begin work from the date of issuance.

11.3.5.2 Route contracts for encumbrance the City's financial system.

12.0 EMERGENCY REPAIRS PROCEDURE

12.1.1 Per Section MAXIMUM AMOUNT OF PROGRAM ASSISTANCE Section, 5.1.6, emergency repairs of up to $5,000 may be authorized by the Director of Community and Economic Development if it poses an "extreme health and safety related emergency in line with Modesto Municipal Code 8-3.301.

12.1.2 From time to time, City of Modesto residents will contact the city with repair requests that constitute an immediate threat to their health and safety. Such cases will be treated as Emergency repairs; e.g. broken sewer line, broken water line, leaking roof (during rainy season), broken HVAC system (during summer/winter), and unsafe electrical and or plumbing conditions.

12.1.3 These cases will be given priority over other non-emergency projects.

12.1.4 Upon homeowner contact with the City's Housing Division, the HFS will conduct a pre-screening of the prospect applicant and collect pertinent emergency case facts.

12.1.5 After pre-screening, the HFS will collect the application and eligibility documentation from the homeowner; the HFS will inform the Housing Rehab Specialist immediately after collecting the pertinent facts.

12.1.6 The HFS shall determine program eligibility within three (3) business days of collecting a completed application packet.

12.1.7 Upon determining eligibility, the Housing Rehab Specialist shall communicate with the homeowner and will schedule and conduct a property inspection and determine/prepare a detailed scope of work and independent cost estimate within three (3) business days of eligibility determination, depending on the severity of the emergency.
12.1.8 Upon completion of the Emergency Repair Scope of Work, the HRS will submit an
"Emergency Repair Request" packet which includes the Scope of Work and related
case facts to the HUD Supervisor for review and approval to proceed with
procurement for the Emergency Project.

12.1.9 Upon approval by the HUD Supervisor, HRS shall obtain a minimum of three (3) informal
bids and shall be awarded to the lowest responsible bidder.

12.1.9.1 Bid documentation will be kept in the file record.

12.1.10 Upon contractor selection, the HRS shall prepare the Advanced Payment Agreement
and all required loan documentation for homeowner, contractor, and Director of
Community and Economic Development execution within three (3) business days of
contractor selection. The Notice to Proceed will be issued upon contract execution by
all parties. The rehabilitation contract shall specify the number of days for project
completion.

12.1.10.1 A homeowner cannot enter into an Advanced Payment Agreement, unless
the homeowner meets the homeowner eligibility guidelines as described
in Section 4.0 - Homeowner Eligibility.

12.1.11 Routine Progress inspections shall be conducted as specified in Section
48PROGRESS INSPECTIONS Section; frequency of progress inspections may be
increased as needed for emergency repairs.

12.1.12 All emergency rehabilitation projects will be presented to the Housing Rehabilitation
Loan Committee (HRLC) at the next available HRLC meeting for formal approval.

13.0 CONTRACTOR ELIGIBILITY
13.1 All prospective Contractors must submit or must have submitted, within the past 3 years, a
Contractor Application to the City which will allow the City to collect all pertinent information to
determine contractor eligibility (i.e. DUNS number, Tax ID, etc).
13.1.1 Contractor failure to submit a Contractor Application may result in a "non-responsive" bid
and disqualify the contractor from consideration.

13.2 Upon Receipt of bids from prospective contractors, the Housing Financial Specialist shall
determine contractor eligibility by conducting the following:
13.2.1 Verify that the City has a Contractor Application on file for each prospective contractor;
13.2.2 If the City does not have a Contractor Application on file for the prospective contractor,
the Housing Financial Specialist will make arrangements to ensure the prospective
Contractor completes and submits a Contractor Application in a timely manner.

13.3 Upon confirmation that the City has a complete Contractor Application on file, the Housing
Financial Specialist shall conduct the following searches for each prospective contractor:

13.3.1 Debarred/Suspended Search
13.3.1.1 It is the City of Modesto’s policy not to conduct business with contractors
who are excluded/debarred from conducting business with any federal
agency.
13.3.1.2 The Housing Financial Specialist shall ensure that the prospective
Contractor is not excluded/debarred from conducting business with any
federal agency by conducting a search on the federal System for Award
13.3.1.3 To comply with this requirement, Contractors must provide their DUNS number on the Contractor Application.

13.3.1.4 Prospective contractors who do not have a DUNS number at time of bid submittal, must request one by accessing the following website: http://fedgov.dnb.com/webform/displayHomePage.do

13.3.1.5 Upon conducting the Sam.gov search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

13.3.2 California State License Board (CSLB) Search:
13.3.2.1 It is the City of Modesto’s policy not to conduct business with Contractors who do not hold an active CSLB license.
13.3.2.2 The Housing Financial Specialist shall verify a prospective Contractor holds an active CSLB license by conducting a search on the CSLB website at https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/checklicense.aspx.
13.3.2.3 The CSLB license must be appropriate for the type of rehabilitation work to be conducted (i.e. General Contractor, Electrical, Carpenter, etc.)
13.3.2.4 Upon conducting the CSLB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

13.3.3 Better Business Bureau (BBB) Search
13.3.3.1 It is the City of Modesto’s policy not to conduct business with contractors who have negative letter rating score (D+ through F) with the BBB.
13.3.3.2 The Housing Financial Specialist shall verify a prospective Contractor has a positive letter rating score (A+ through C-) with the BBB.
13.3.3.3 Upon conducting the BBB search, the Housing Financial Specialist shall print the search results and place a copy in the project file.

14.0 COST REASONABLENESS AND SCOPE OF WORK:

14.1 As a CDBG recipient, the City of Modesto is held accountable for all funds, property and assets of the CDBG program. The City of Modesto must maintain a financial accounting system for grants that meets the CDBG regulations, 24 CFR Part 84 and OMB Circulars A-87 and A-133. This includes requirements pertaining to financial management systems and records, allowable costs and audits.
14.1.1 The City of Modesto is required to ensure that CDBG funds are spent only on reasonable and necessary costs associated with approved grant activities and must have a procedure for determining the reasonableness, allowability and allocability of costs.
14.1.1.1 For major projects, the procedure for determining reasonableness will include the preparation of a detailed scope of work and an independent cost estimate.
14.1.1.1.1 A detailed Scope of Work will identify project milestones, reports, deliverables, and end products that are expected to be provided by the performing party. The Scope of Work will also include a timeline for all deliverables.
14.1.1.1.2 An independent cost estimate will be established utilizing local market data and published cost guidelines.
14.1.1.1.3 The project manager and supervisor will work with the appropriate parties to develop the independent cost estimate to ensure the cost estimate is reasonable based on local market data.
14.2 To comply with cost reasonableness requirements, the City of Modesto will review all requests for payments to ensure that costs are allowable under regulations, approved in the CDBG grant application, allocated to the correct program activity and are reasonable.

14.3 A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

14.3.1 In determining reasonableness of a given cost, consideration shall be given to whether the cost is of a type generally recognized as ordinary and necessary to address the housing condition being considered for repair.

14.3.2 A cost analysis of the scope of work items shall be made and documented in the project file. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability.

14.3.3 Cost analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts.

14.3.4 All change orders will be subject to a cost reasonableness evaluation by the project manager and approval by the HUD Supervisor.

14.4 Cost reasonableness shall be determined by comparing the bids received with the cost estimate prepared by the Housing Rehabilitation Specialist.

14.5 Bids received must be within 15% of the Housing Rehabilitation Specialist's cost estimate.

14.6 An explanation must be provided to the HRLC for any bid selected that exceeds 15% of the estimate.

14.7 Comparable estimates may also be considered, when optimal, for utilization of subcontractors instead of general contractors for work to be performed.

14.8 The Housing Rehabilitation Specialist will work to manage rehabilitation costs through the most efficient and economically feasible project contracting model.

15.0 ENVIRONMENTAL REVIEW:

15.1 All assisted properties shall be subject to environmental review as required by the funding source(s). No funds shall be committed and/or released until all environmental reviews have been conducted to the satisfaction of City of Modesto. Refer to HUD Policies and Procedures Manual, Section 14 – Environmental Review Plan – for environmental review process.

16.0 HOUSING REHABILITATION LOAN COMMITTEE (HRLC) APPROVAL:

16.1 All Housing Rehabilitation Program activities shall be subject to majority vote approval by the City of Modesto Housing Rehabilitation Loan Committee (HRLC). The HRLC shall be comprised of the following voting members (all terms are four (4) years in length):

16.1.1 One Councilmember (appointed by the Mayor)
16.1.2 One financial institution representative.
16.1.3 One service provider representative.
16.1.4 One general contractor (active or retired).
16.1.5 One Housing Authority of the County of Stanislaus (HACS) representative.
16.1.6 One Citizen-at-Large.
16.1.7 One Citizen’s Housing and Community Development Committee Representative.
16.2 The City of Modesto Community Development Manager may appoint a substitute voting member using alternative criteria if existing circumstances do not allow for a Committee make-up as specified above and time constraints warrant a substitution.

16.3 All actions of the HRLC shall be reflected in meeting minutes to be prepared by staff of the City of Modesto Community Development Division.

17.0 APPROVAL CONTINGENCIES:

17.1 All rehabilitation loans shall be evidenced by the following documents and provisions:
  17.1.1 Loan Agreement;
  17.1.2 Promissory Notes (s) payable to City of Modesto in the principal amount of the loan and stating the terms and rate of interest;
  17.1.3 Deed of Trust(s) securing the Note (deed shall be recorded and shall secure City of Modesto’s financial interest in the property);
  17.1.4 Declaration of Conditions, Covenants, and Restrictions (if applicable);
  17.1.5 Other appropriate security instrument naming City of Modesto as beneficiary;
  17.1.6 Request for copy of “Request for Notice of Default” on first mortgage; and
  17.1.7 Any other documents determined necessary by the Community Development Manager.

17.2 All rehabilitation activities approved by the HRLC shall be contingent on meeting the following requirements:
  17.2.1 Execution of a construction contract and Notice to Proceed;
  17.2.2 Construction Schedule mutually agreed to by the Homeowner, Contractor, and Housing Rehabilitation Specialist;
  17.2.3 On-site monitoring and inspections by the Housing Rehabilitation Specialist to verify scope of work, materials, and construction schedule conform to contract requirements;
  17.2.4 Written final inspection and approval documentation by the Housing Rehabilitation Specialist;
  17.2.5 Recorded Notice of Completion, signed by the homeowner, following final inspection and approval by the Housing Rehabilitation Specialist;
  17.2.6 Release of retention payment within 30-days after recording Notice of Completion.

17.3 Written change orders, subject to the criteria listed below, shall be required for any changes in the work write-up, such as eliminating an item completely, eliminating one item and substituting another, or adding items:
  17.3.1 Contractor must notify Housing Rehabilitation Specialist and homeowner if Contractor deems a change order for work is necessary; Contractor’s Change Order request shall be submitted in writing and list the change order items with dollar value for each change;
  17.3.2 Housing Rehabilitation Specialist shall review and determine if Change Order requests and costs are reasonable and work with Contractor to modify Change Order items if necessary;
  17.3.3 Upon reviewing and approving Change Order requests, Housing Rehabilitation Specialist must prepare a City of Modesto Change Order Request Approval form and submit to Housing and Urban Development Supervisor for final approval signature;
17.3.4 Upon final approval by the Housing and Urban Development Supervisor, Change Order shall be signed by Homeowner and Contractor;

17.3.5 The combined total of all approved Change Orders shall not exceed the approved financing and contingences;

17.3.6 Homeowners cannot request (non-health and safety) change orders in excess of the approved financing (not including contingency), unless HRLC approves the use of additional funds (Attachment A).

17.4 The homeowner shall maintain fire insurance on the property for the duration of the program loan(s). This insurance must be adequate to cover all encumbrances on the property. The insurer must identify City of Modesto as Additional Insured for the amount of the program loans. A copy of the homeowner’s insurance policy shall be provided to City of Modesto annually.

17.5 Homes located within a 100-year flood zone will be considered on a case-by-case basis. If approved for assistance, the Borrower is required to maintain flood insurance during the term of the assistance and in an amount adequate to secure the program loan and all other encumbrances. The insurer must identify City of Modesto as Loss Payee for the amount of the program loans. A copy of the homeowner’s flood insurance policy shall be provided to City of Modesto annually.

18.0 CONTRACTOR LIST

18.1 The Housing Financial Specialist shall maintain a Contractor List that includes contractors that have participated in the Homeowner Rehabilitation Program. These contractors must have been vetted through the City’s Contractor Eligibility Process as outlined in CONTRACTOR ELIGIBILITY SECTION Section 11.0. The list shall contain the names, addresses, license numbers, CSLB license expiration dates, DUNS Number, insurance information, and business license numbers, expiration dates, insurance information, and business license information for contractors who have been formally approved for participation in the housing rehabilitation programs.

18.1.1 Information on the Contractors List will be updated on an annual basis, or more frequently, if deemed necessary.

18.1.2 The Contractors List will be available to the public, upon request. If the public requests a copy of the Contractors List, a disclaimer must appear on the top of the list as referenced in the desk manual.

18.2 Any person, partnership, or corporation with a current California General Contractor’s License is eligible to have bids considered on a housing rehabilitation project.

18.2.1 In accordance with 24 CFR 85.36(c)(4) the City shall encourage qualified contractor participation to ensure that enough bids are received for a successful and adequate solicitation. Staff shall engage in continuous contractor outreach and engagement in order to provide for the maximum open and free competition that will not preclude other potential bidders from qualifying during the bid solicitation period.

19.0 PROGRESS INSPECTIONS

19.1 The Housing Rehabilitation Specialist shall conduct routine progress inspections on all housing rehabilitation projects to verify the Contractor is adhering to the agreed upon Contract Schedule.

19.1.1 Routine progress inspections shall mean onsite inspections once weekly, unless project timelines call for more frequent inspections.
19.2 The Housing Rehabilitation Specialist shall track each progress inspection by completing a Progress Inspection Report, documenting the results and date of the inspection, and place the completed Progress Inspection Report in the project file.

19.3 If applicable, the Housing Rehabilitation Specialist shall include the reasons for any project delays within the Progress Inspection Report and describe a revised project schedule agreed upon by the Contractor, Homeowner, and Housing Rehabilitation Specialist.

19.4 Revised project schedules shall be signed by the Contractor, Homeowner and Housing Rehabilitation Specialist.

19.5 Further unjustified project delays by the Contractor resulting in non-compliance with the agreed upon project schedule shall result in a credit to the Homeowner until the project has been substantially completed or terminated as defined within the section entitled “Time is of the Essence in the Performance of this Agreement” in the Rehabilitation Program Contract.

19.6 Contractor progress payment requests shall reflect the percentage of the project completed through the time period for which payment is requested. The project completion percentage shall be indicated on the internal payment request form.

20.0 CONTRACTOR COMPENSATION

20.1 Contractor progress payments shall be subject to Housing Rehabilitation Specialist verification, acknowledgement and certification that the work being invoiced for is reflective of the work verified through the Housing Rehabilitation Specialist’s progress inspection(s) and through the time period indicated on the payment request.

20.1.1 All contractor progress payments must be accompanied by the “Invoice Checklist” including all required items listed on the invoice checklist for an invoice to be processed by the City’s Finance Department.

20.1.2 Progress payment to contractors and reimbursement from HUD will occur only after the Housing Rehab Specialist has verified that the work for which reimbursement is being issued, has been completed.

20.1.2.1 Verification of work completion will take place by conducting onsite progress inspections and including an inspection report reflecting a “pass”.

20.2 Contractor payment requests will only be processed if signed by the Contractor, Homeowner, Housing Rehabilitation Specialist, and Housing Rehabilitation Specialist Supervisor. Invoices must be detailed enough to determine payment eligibility, along with accompanying documentation. All efforts will be made to reimburse qualified invoices within a 30-day time frame.

20.3 If the Homeowner is not satisfied with the completed work, or the Contractor has not completed the work in accordance with the Rehabilitation Program Contract, Community Development Division staff will meet with the Homeowner and Contractor to resolve the dispute.

20.4 If such informal resolution is unsuccessful, the Homeowner and the Contractor must follow the arbitration steps and tribunal procedures as outlined in the Rehabilitation Program Contract.
21.0 NON-PROFIT SPONSORED HOUSING ACQUISITION AND/OR REHABILITATION ACTIVITIES

21.1 City of Modesto Housing Program funds, as allowed by the individual funding source(s), may be provided directly to a non-profit entity for the purpose of acquiring and/or rehabilitating housing units that will ultimately benefit an owner-occupant provided that the activity complies with all criteria as set forth in the Sections above and with the following criteria:

21.1.1 Funds provided to a non-profit Developer shall not be used for the administration of the activity.

21.1.2 “Developer's fees” shall not be allowed as part of funds provided to a non-profit. However, Non-profit Developers may be compensated at a rate of up to twelve percent (12%) of the total rehabilitation/construction cost for each project.

21.1.3 Non-profits seeking funding shall submit for Community Development Division review and HRLC approval consideration on a project plan detailing:

21.1.3.1 How the criteria of the Housing Rehabilitation Program will be met;
21.1.3.2 Scope of work including total estimated project cost;
21.1.3.3 Timeline for project completion;
21.1.3.4 Project proforma including all secured funding sources, amounts, and detailed uses to be utilized in fulfillment of the project. “Pledged” or pending sources will not be considered as leverage funding.
21.1.3.5 Financing summary of all loans being transferred to homebuyer.

21.1.4 Following HRLC approval and prior to release of funds, the non-profit must submit to City of Modesto items including, but not limited to a resolution by the non-profit's Board accepting the terms of the request and commitment of repayment, insurance and endorsements, and other items outlined within the Community Development Division contract completion checklist.

21.1.5 The Maximum Sales Price of a City/non-profit sponsored project to be sold to eligible buyers must not exceed 100% of the appraised value, with a 50/50 share of net proceeds between the Developer and the City of Modesto from the sales price of a single family home listed for City of Modesto.

21.1.6 City/Non-profit sponsored projects must comply with Maximum after Rehabilitation Value and Maximum Loan to Value requirements as outlined in sections 6.0 and 7.0 MAXIMUM AFTER REHABILITATION VALUE AND MAXIMUM COMBINED LOAN TO VALUE Sections respectively.
21.1.6.1 Additional information may be required by the HRLC in consideration of the request.

21.1.7 All HRLC approved funding shall be provided as a reimbursement subject to review and approval of a Reimbursement Request submitted from Developer to the City of Modesto Community Development Division. All RFF’s shall be in a form determined satisfactory to the Department.

22.0 MONITORING

22.1 The Housing Financial Specialist audits funded recipients to ensure that assisted units are occupied only by households that are eligible as low-income families and must meet certain AMI limits.
22.2 The requirements include HOME-assisted non-owner-occupied units in single-family (1-4 unit) housing units.

22.3 The Housing Rehabilitation Specialists perform annual perform inspections to ensure units meet program compliance requirements.

22.4 The Housing and Urban Development Supervisor will annual audit 10% of these activities to ensure eligibility compliance requirements for the units are still being met.

23.0 LEAD BASED PAINT OPERATING PROCEDURES FOR UNITS BUILT PRIOR TO 1978

23.1 All program applicants shall receive notification of Lead-Based Painting hazards as follows:

23.1.1 The City will provide a Lead Hazard Information Pamphlet “Protect Your Family From Lead in Your Home” to all program applicants.

23.2 Homeowner Rehabilitation Federal Assistance Up to $5,000:

23.2.1 Lead Based Paint Presumption: Paint testing will not be conducted for housing rehabilitation projects not exceeding $5,000. The City will presume the presence of lead based paint for all housing projects assisted with an amount not exceeding $5,000. If the rehabilitation project will disturb painted surfaces all lead based paint mitigation activities, other than the actual testing, will be implemented as prescribed by HUD.

23.2.2 If the housing unit is built prior to 1978, the homeowner will be provided a “Notice that Lead-Based Paint or Lead Based Paint Hazards Are Presumed to be Present” to occupants within 5 business days of making such presumption.

23.2.3 Visual Inspection: A visual inspection shall be made by the Rehabilitation Specialist or other staff assigned to make the inspection, to determine if the project will disturb any painted areas. If the project will not disturb any painted areas, the case file shall be so documented and the property owner or tenant advised in writing. No additional compliance steps with lead based paint regulations are required.

23.2.4 Repair Work: If the project will disturb paint, then the City will require the rehabilitation contractor to be certified as a lead based paint abatement supervisor or as a certified lead safe worker; or the rehabilitation contractor will secure a certified lead base paint abatement supervisor to monitor safe work practices in those areas where painted surfaces will be disturbed by the rehabilitation work. Safety precautions for occupant protection ((§35.1345), work site preparation and cleanup activities and prohibited methods of removal (§35.140) of lead base paint materials must be followed.

23.2.5 De Minimis Levels: Safe work practices are not required for projects which are determined to disturb surfaces below de minimis levels (§35.1350). The case file shall be documented and a Notice of Completion and Notice of Clearance is not required.

23.2.6 Notice of Completion and Notice of Clearance: A clearance examination of the work site (the area in which the rehabilitation construction was performed) is the responsibility of the rehabilitation contractor and must be performed by a certified lead based paint inspector/assessor. Once work is completed, the City will provide the owner a report.
entitled “Summary Notice of Completion Lead Base Paint Hazard Reduction Activity” within fifteen (15) days of the completion date (the date on which clearance is achieved). A copy shall be placed in the project file as documentation.

23.3 Homeowner Rehabilitation Federal Assistance $5,001-$25,000

23.3.1 Information Pamphlet: The City shall provide the pamphlet “Protect Your Family From Lead In Your Home” to the applicant.

23.3.2 De Minimis Levels: Safe work practices are not required for projects which are determined to disturb surfaces below de minimis levels (§35.1350). The case file shall be documented and a Notice of Completion and Notice of Clearance is not required.

23.3.3 Paint Testing or Presumption: For projects of this funding level ($5,001-$25,000), presumption of the presence of lead base paint shall not be made. Instead, paint will be tested in all areas that will be disturbed by the proposed repair work by a certified lead base paint inspector/assessor.

23.3.4 Noticing: The City shall provide the occupants with a “Summary Notice of Lead Based Paint Inspection” after such inspection is made by a certified lead base paint inspector/assessor in accordance with §35.1320(a).

23.3.5 Risk Assessment: The City shall order test samples of those painted surfaces to be disturbed by the rehabilitation construction or, upon visual inspection by the rehabilitation specialist, on any painted surfaces that are deteriorated. If lead is found in the test samples, a risk assessment shall be ordered by the City and conducted by a certified lead inspector/assessor in accordance with §35.1320(b) before rehabilitation construction begins. The lead base paint inspector/assessor will provide a copy of the results to the City who will notify the owners of the property with the “Summary Notice of Lead-Based Risk Assessment.”

23.3.6 Interim Controls: If the risk assessment indicates the presence of lead base paint then lead hazard mitigation activities, including paint standards, interim controls and paint stabilization must be performed on all identified lead paint hazards in accordance with §35.1330. Safety precautions for occupant protection (§35.1345), work site preparation and cleanup activities and prohibited methods of removal (§35.140) of lead base paint materials must be followed.

23.3.6.1 A person performing paint standards, interim controls or stabilization must be trained in accordance with 29 CFR 1926.59 and be a certified lead base paint safe worker or certified lead base paint abatement supervisor.

23.3.7 Relocation: As stated in section §35.1345, temporary relocation is required unless: (1) the work will not disturb lead based paint or lead based paint hazards; (2) only exterior work is being conducted and openings to the interior are closed during the work and lead-hazard-free entry to the dwelling is provided; (3) the interior work will be completed in 8 hours, the work sites are contained to prevent dust release into other areas, and no other health or safety hazards are created; or (4) interior work will be completed in 5 consecutive days, work sites are contained, no other health or safety hazards are created, work sites and areas 10 feet from the containment are cleaned at the end of each work day, and occupants have safe access to sleeping, kitchen and bathroom facilities.
23.3.7.1 Safe access to sleeping, kitchen and bathroom facilities can be provided in another convenient location outside of the work site, thereby avoiding unnecessary relocation of residents.

23.3.8 Clearance: Clearance shall be the responsibility of the rehabilitation contractor who will order the clearance inspection from a certified lead base paint inspector/assessor and in accordance with §35.1340(b).

23.3.9 Notice of Completion and Notice of Clearance: Once work is completed and after a clearance examination of the work site is performed by a certified lead paint inspector/assessor, a copy shall be placed in the project file as documentation. The City will provide a “Summary Notice of Completion of Lead Based Paint Hazard Reduction Activity” to the owner within 5 business days from project completion date. The lead base paint inspector/assessor will provide a “Lead Hazard Evaluation Report” (Form DHS 8552) to the City, the owner and to the Department of Health Services.

23.4 Homeowner Rehabilitation Federal Assistance greater than $25,000 (Identify and Eliminate lead hazards)

23.4.1 Information Pamphlet: The City shall provide the pamphlet “Protect Your Family From Lead In Your Home” to the applicant.

23.4.2 If the amount of assistance is more than $25,000, the following is required:

23.4.2.1 Paint testing as outlined in Section 20.3.3 Paint testing or Presumption sub-section above;

23.4.2.2 Abatement of all lead based paint hazards identified or produced;

23.4.2.3 Use of interim controls on exterior surfaces not disrupted by rehabilitation; and all applicable lead based paint notices.

23.4.3 All paint tests that result in a negative finding of lead-based paint are exempt from any and all additional requirements. If defective paint surfaces are found, they will be properly treated or abated. A certified Inspector/Assessor shall perform all paint testing, risk assessments, and clearances. A trained supervisor may oversee interim controls; however, a certified supervisor and workers will perform all abatement.
1. FOUR FACTOR ANALYSIS FOR LIMITED ENGLISH PROFICIENT PERSONS

1.1. In order to determine the needs of Limited English Proficient (LEP) persons in the jurisdiction of the City of Modesto (the City), the City conducted the following analysis defined by the U.S. Department of Housing and Urban Development (HUD):

2. Factor 1: Number or proportion of LEP persons served or encountered in the eligible service area:

2.1. The City obtained information from the U.S. Census Bureau’s American Factfinder website, as recommended by HUD, to gather data about the City’s overall population, as well as the population of LEP persons within the City and the primary languages spoken. The following results were obtained from the American Factfinder 2011-2015 American Community Survey 5-Year Estimates:

2.2.

<table>
<thead>
<tr>
<th>Total Population 5 years and Over:</th>
<th>192,811</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total LEP Population 18 Years and Over:</td>
<td>23,121</td>
</tr>
<tr>
<td>Spanish Speaking LEP Population 18 Years and Over:</td>
<td>15,347</td>
</tr>
<tr>
<td>Asian and Pacific Island Languages 18 Years and Over:</td>
<td>3,488</td>
</tr>
<tr>
<td>Other Indo-European Language Speaking LEP Population 18 Years and Over:</td>
<td>2,347</td>
</tr>
<tr>
<td>Other LEP Speaking Population 18 Years and Over:</td>
<td>1,939</td>
</tr>
</tbody>
</table>

2.3. The above data demonstrates that approximately 66% (15,347) of the City’s LEP population is Spanish Speaking. This language group is the only one that meets the 1,000 or 5% requirement for written translation services as described in the Language Assistance Plan (LAP).
2.4. The next largest LEP population group is Asian and Pacific Island Languages which constitutes approximately 15% (3,488) of the City’s LEP population. The Asian and Pacific Islander group consists of a combination of many different languages including, but not limited to, Chinese, Vietnamese, Hmong, Urdu, Bengali, and Korean. According to the U.S. Department of Education, the 3 most common Asian and Pacific Islander languages in the U.S., for which data was collected and reported, are Chinese, Vietnamese, and Hmong. According to the Statistical Atlas, in 2015 there were 962 Chinese LEP persons, 385 Vietnamese LEP persons, and 164 Hmong LEP persons in the City.

2.5. The next LEP population constitutes 10% (2,347) which consists of Indo-European language speakers. This population includes, but is not limited to, Albanian, Armenian, Baltic, Slavic, Germanic, and Greek.

2.6. It is not known what languages were categorized under the "Other LEP speaking population."

3. Factor 2: Frequency with which LEP persons come into contact with the program:

3.1. A review of the frequency of LEP persons contacting the City for the covered HUD housing programs revealed that approximately 4 out of 10 persons contacting the City were Spanish speaking. There were no records of any other language group contacting the City for the same programs.

3.2. The City’s Community Development Division includes staff who speak Spanish and regularly provide oral interpretation services to customers who access the City’s housing programs.

4. Factor 3: Nature and importance of the program, activity, or service provided by the program:

4.1. The services provided by the City’s Community Development Division provide affordable housing opportunities via homebuyer assistance and owner occupied housing rehabilitation. These programs directly address General Plan/Housing Element goals as well as state and federal housing requirements.

5. Factor 4: Available resources and costs to the City:

5.1. Because the City has Spanish speaking staff, it is cost effective for the City to provide Spanish language translation of vital documents.

5.2. The City will utilize any documents provided by HUD in languages other than English.

5.3. The City will consider professional interpretation services to provide oral interpretation in languages other than Spanish, as needed.
6. LANGUAGE ASSISTANCE PLAN

6.1. Introduction

6.1.1. The City is committed to providing equal opportunity housing in a non-discriminatory manner, and to fully comply with all Federal, State and local nondiscrimination laws as well as with regulations governing Fair Housing and Equal Opportunity in housing and employment. This includes complying with Title VI of the Civil Rights Act of 1964 to ensure meaningful access to programs and activities by Limited English Proficient (LEP) persons.

6.1.2. The purpose of this LAP is to identify how the City will ensure its methods of administration will not have the effect of subjecting LEP persons to discrimination because of their national origin, and to ensure LEP persons have full access to City programs and services.

6.2. Who is LEP?

6.2.1. For purposes of this LAP, anyone whose primary language is not English, and has a limited ability to read, write, speak or understand English may be an LEP person.

6.2.2. The City will not identify anyone as an LEP person; the beneficiaries of the services and activities must identify themselves as an LEP person (Federal Register Vol. 72, No. 13, January 22, 2007).

6.3. Safe Harbor

6.3.1. “Safe Harbor” guidance provided by HUD states that written translations of vital documents should be provided for each eligible LEP language group that constitutes 1,000 or more of the eligible population in the market area or 5% of the eligible population.

6.3.2. It is important to note that the “Safe Harbor” concept only applies to the translation of documents. Failure to provide translation does not mean there is non-compliance. Oral interpretation may be an acceptable way of providing access when the translation of documents becomes so burdensome as to defeat the legitimate objectives of a program. Other considerations will be the importance of the service, benefit or activity, the nature of the information sought, and whether the proportion of the LEP persons served calls for written translations.

6.4. Service Area

6.4.1. The Service Area shall mean the Modesto City limits.

6.4.2. When considering written translations, the “Safe Harbor” evaluation will differ depending on the population the City is considering as follows:

6.4.3. When conducting outreach to the eligible population in the service area, the number and percentage of the eligible LEP population in the service area will be evaluated.
6.4.4. When working with program beneficiaries (i.e. applicants to City’s housing programs), the number and percentage of LEP persons accessing the program will be evaluated.

6.5. Identification of Language Needs within the City

6.5.1. It was determined through review of the U.S. Census Bureau’s American Fact Finder 2011-2015 American Community Survey 5-Year Estimates data, that the total LEP population 18 years of age and over in the City is 23,121.

6.5.2. Of the total LEP population, the largest LEP population is Spanish speaking with 15,347 (66% of LEP population) Spanish Speaking LEP persons.

6.5.3. A review of the frequency of LEP persons contacting the City for the covered HUD Housing programs revealed that approximately 4 out of 10 persons contacting the City within any given week were Spanish speaking. There were no records of any other language group contacting the City for the same programs.

6.5.4. To comply with the “Safe Harbor” rule, the City has determined that because there are more than 1,000 Spanish-speakers in the City who speak English less than very well, the City will translate vital documents into Spanish.

6.5.5. The next largest LEP population were persons who speak Asian and Pacific Islander languages (which consist of Chinese, Vietnamese, Hmong, Urdu, Bengali, and Korean among others) and identified themselves as speaking English “less than very well.” This is a population of 3,488 or 15% of the overall LEP population. According to the U.S. Department of Education, the 3 most common Asian/Pacific Islander languages in the U.S. are Chinese, Vietnamese, and Hmong. According to the Statistical Atlas, in 2015 there were 962 Chinese LEP persons, 385 Vietnamese LEP persons and 164 Hmong LEP persons. The City has determined that because there are less than 1,000 people in each of the major Asian/Pacific Islander languages, the City will not translate vital documents into these languages. However, the City will provide oral interpretation as needed to LEP persons requesting such services.

6.5.6. The remaining LEP population consists of Indo-European language speaking and other LEP speaking populations for which data was not available. Written translation of vital documents into these languages will not be provided. The City will provide oral interpretation, as needed, to LEP persons requesting such services.

6.6. Written Translation

6.6.1. As stated above in Section V, the City has determined that because there are more than 1,000 *Spanish-speakers in the City who speak English less than very well, the City will translate vital documents into Spanish. As of the date of the adoption of this LAP, Spanish is the only language into which vital documents will be translated. This may subject to change upon updates of the LAP.

6.7. Vital Documents
6.7.1. HUD has defined "Vital Documents" to be those documents that are critical for ensuring meaningful access to the City's major activities and programs by beneficiaries generally and LEP persons specifically.

6.7.2. In general, the City will attempt to translate all letters sent to Spanish speaking program applicants who are identified as LEP. However, the following is a list of documents the City has determined to be Vital Documents and has committed to translating into or providing HUD-approved versions in Spanish:

**6.8. Vital Documents**


<table>
<thead>
<tr>
<th>Documents</th>
<th>Translation Turn Around</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consolidated Plan</td>
<td>30 calendar days from the date of request</td>
</tr>
<tr>
<td>Annual Action Plan</td>
<td>30 calendar days from the date of request</td>
</tr>
<tr>
<td>Consolidated Annual Performance Evaluation Report</td>
<td>30 calendar days from the date of request</td>
</tr>
<tr>
<td>Assessment of Fair Housing</td>
<td>30 calendar days from the date of request</td>
</tr>
<tr>
<td>Committee Agendas</td>
<td>14 days from the date of request</td>
</tr>
<tr>
<td>Committee Minutes</td>
<td>14 days from the date of request</td>
</tr>
</tbody>
</table>

6.7.4. Homebuyer Assistance Program Application

The following Vital documents will be readily available translated into Spanish (and other languages as needed may be identified in the future):


6.7.4.2. Homebuyer Assistance Program Application

6.7.4.3. Citizen Participation Plan

6.7.4.4. Complaint Procedures

6.7.4.5. Homebuyer Assistance Program Brochure

6.7.4.6. Homeowner Rehabilitation Program Application

6.7.4.7. Homeowner Rehabilitation Program Brochure

6.7.4.8. Annual Monitoring Notices

6.8. Oral Interpretation
6.9.1.6.8.1. The City will make every effort to provide oral interpretation for all its clients who have identified themselves as LEP persons and request services.

6.10.6.9. Bilingual Staff
6.10.1-6.9.1. The City’s Community Development Division employs bilingual, Spanish-speaking staff in several positions, including program management. Currently, the City’s Community Development Division has four full-time Spanish-speaking staff.

6.10.2-6.9.2. In addition, the City has access to other bilingual City employees, including numerous Spanish-speaking staff, as well as staff members who speak: Hindi, Laotian, Hmong, French, Khmer, and Cambodian.

6.10.3-6.9.3. Bilingual employees must pass a competency test in the respective language in order to be designated as a bilingual person. This test consists of an oral question and answer session conducted in an oral panel interview setting by Certified City employees.

6.11.6.10. Interpreter Services
6.11.1-6.10.1. When there is not a City staff person who speaks the LEP person’s primary language, the City will seek interpretation through a professional interpreter service.

6.11.2-6.10.2. In the event the LEP person’s primary language is not widely spoken and the City is unable to locate a suitable interpreter through a professional interpreter service, the City may resort to other methods such as seeking community volunteers.

6.11.3-6.10.3. As a last resort in cases where the City is unable to find an acceptable interpreter within a time frame to effectively assist the client, the City may use an online translation website in order to communicate via an in-office computer.

6.12.6.11. Informal Interpreters
6.12.1-6.11.1. The City will generally discourage the use of family members or other informal interpreters, but will allow the use of an interpreter of the LEP person’s choosing (including family members or a professional interpreter at the LEP person’s own expense) when the LEP person rejects the City’s free language assistance services. The City will document the offer and the LEP person’s subsequent rejection.

6.13.1.1. Staff Training
6.12. The City will provide a copy of this LEP to all existing and incoming staff, and will also provide training as to its contents and what is required under the policy Outreach.

6.12.1. The City will conduct outreach to LEP persons as follows:
6.12.1.1. The City will provide notification to LEP persons of the availability of translation assistance services (both interpretation and translation) through public notices published in conjunction with the Annual Action Plan.
6.12.1.2. The City will provide a link on the City website to HUD translated materials site.
6.12.1.3. The City will provide its subrecipients with technical assistance regarding their responsibilities to provide language assistance services to individuals in their programs and request information from them through program monitoring on how they are providing outreach to LEP persons.

6.13. **Staff Training on LEP guidance and the LAP, including specific provisions for training staff that are responsible for monitoring subrecipients.**

6.13.1. The City will ensure that staff are given proper LEP training so that they are aware of their obligations to provide access to information and services for LEP persons. Staff associated with HUD Funded programs will require a more in-depth training, and the City will ensure that such staff persons have been trained on providing language assistance and/or obtaining language assistance for LEP individuals. Training for these individuals will include the following:

6.13.1.1. Staff persons will be training on language assistance requirements by being made aware of applicable laws and resources.

6.13.1.2. Staff persons will be provided with a copy of the Four Factor Analysis and Language Assistance Plan, and will be informed when such information is updated.

6.13.1.3. Staff person will be informed of other staff persons who are proficient in providing language assistance, and receive instructions on actions to take when LEP individuals are encountered, including instructions on the use of the language line.

6.13.1.4. Front desk receptionists will be trained on the use of Language Line and on use of language identification cards, or "I speak cards", which invite LEP persons to identify their language needs. I speak cards will be kept at the front desk.

6.13.1.5. All staff persons that monitor subrecipient’s will be trained on examining the efforts of subrecipients to comply with LEP requirements. This will include the following: (1) evaluating whether the subrecipient has completed a Four Factor Analysis; (2) determining whether such Four Factor Analysis necessitated the preparation of a Language Assistance Plan; (3) determining whether subrecipient provided language assistance outreach and services as identified in the Language Assistance Plan; and (4) determining whether Vital Documents have been made available in appropriate languages.

The City will provide a copy of this LAP to all existing and incoming staff, and will also provide training as to its contents and what is required under the policy.

6.13.1.6. Supervisors and managers will be trained on language assistance requirements so that they can reinforce the importance of compliance and ensure implementation by staff.

6.14. **Recipients of HUD Funds From the City**

6.14.1. The City will monitor that the any recipient

6.14.15. Monitoring and Updating of This LAP
6.14-6.15.1. The City will review/revise this LAP on an as needed basis, but no less than every five years to ensure the populations of the various language groups within the jurisdiction and their needs are reflected in the provision of primary-language services.
RESOLUTION AWARDING $50,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO OPPORTUNITY STANISLAUS, FOR THE VOLT INSTITUTE TO PROVIDE ELIGIBLE PUBLIC SERVICE ACTIVITIES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto receives Community Development Block Grant (CDBG), HOME Investment Partnerships Program and Emergency Solutions Grant funds from the U.S. Department of Housing and Urban Development each year, and

WHEREAS, these funds are allocated through an Annual Action Plan which is reviewed by the Citizens’ Housing and Community Development Committee and approved by the City Council, and

WHEREAS, on June 12, 2018, by Resolution No. 2018-238, Council approved the City of Modesto Program Year 2018-19 Annual Action Plan, and

WHEREAS, the Annual Action Plan approved up to 15% of the annual allocation for public service funded activities which will be utilized with Community Development Block Grant Funding, and

WHEREAS, the funding allows the City to partner with local nonprofit service providers, such as Opportunity Stanislaus, for the provision of eligible public service activities, and

WHEREAS, the Opportunity Stanislaus, plans to utilize the funds to match a Federal Disaster Recovery EDA grant opportunity, and

WHEREAS, this project will provide services to individuals with incomes below 80% of the area median income (AMI), and
WHEREAS, the project will utilize $50,000 of Community Development Block Grant entitlement funds, and

WHEREAS, the Opportunity Stanislaus will be able to leverage up to $2,200,000 increase the capacity of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the awarding up to $50,000 in Community Development Block Grant funds to Opportunity Stanislaus for the provision of eligible public service activities.

BE IT FURTHER RESOLVED, that the City Manager or his designee, is 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 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephani Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2018-360

RESOLUTION AMENDING THE FISCAL YEAR 2017-2018 AND FISCAL YEAR 2018-2019 ANNUAL OPERATING AND CAPITAL IMPROVEMENT PROJECT FUND 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 2017-18 and Fiscal Year 2018-19.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2017-18 and Fiscal Year 2018-19 Annual Operating and Capital Improvement budget as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A
FISCAL YEAR 2017-18

COMMUNITY ECONOMIC DEVELOPMENT

A budget adjustment is necessary to recognize actual revenue received in the Measure L Fund (1410) for the fiscal year FY 16/17 and FY 17/18. The total revenue to recognize is $10,622,427 for the Local Streets & Roads (14625), Traffic Management (14626), Bike & Pedestrian (14627), and Transit Services (53402) cost centers. Additionally, a transfer of $322,324 needs to be established to move the revenue from the Transit Services cost center (53402). $302,324 of the transfer will go to Bus Fixed Route Max Operations Fund (4540) and $20,000 to the Bus Service Fund – DAR (4520) to offset transit operation and maintenance services in the fiscal year.

FIRE DEPARTMENT

A budget adjustment is necessary to amend the Industrial Fire District budget as approved in Fund 6100, JPA – Industrial Fire Fund, by the Industrial Fire board on August 2, 2018. The revenues are being increased by $65,600, which is offset by an increase to the expense of the final disbursements to the JPA members by $65,600.

INFORMATION TECHNOLOGY

A budget adjustment is necessary to reallocate the IT project transfers, in the amount of $2,448, from Industrial Fire JPA to General Fund. These transfers were for the Budget Software and Oracle Upgrade but the Industrial Fire JPA never approved these costs as part of their budget. The increase of the General Fund transfers will come out of the General Fund Emergency Reserves.

PARKS, RECREATION, AND NEIGHBORHOODS

A budget adjustment is necessary in the TRRP JPA operating cost center (6700-80300) due to unexpected pump repair expenses and additional tree trimming work that was delayed last fiscal year due to flooding. In order to cover the outstanding expenses we will recognize $8,977 in additional rental/lease revenue and reduce the transfers out in the amount of $47,457 which will reduce the transfer in for the TRRP JPA Special Revenue Fund (6710) in the amount of $47,400. This will allow the increase of Professional Services by $33,234 to cover the expenses mentioned.

POLICE DEPARTMENT

A budget adjustment is necessary to increase the transfer between General Fund and the Grants – Police Fund (1342) in the amount of $280,000 to cover the City’s portion of the COPS Hiring Program Grant while also reducing the Revenue in the Grants – Police Fund by $280,000 from the Department of Justice for the COPS Hiring Grant. The additional transfer amount will be coming from the General Fund Emergency Reserves.
PUBLIC WORKS

A budget adjustment is necessary to establish a transfer from the Surface Transportation Fund – Measure L/SB1 Maintenance of Effort (MOE) Fund (1420) to the Surface Transportation Fund (1700) in the amount of $1,157,210 to offset transportation operations in the fund and meet the Senate Bill 1 RMRA MOE requirement.

A budget adjustment is necessary to increase the budget in the Fleet Replacement Fund 5409 in the amount of $197,700 to account for fleet vehicle purchases that were not in the original fleet replacement budget. A majority of the unbudgeted replacements were in the Public Works department for vehicles related to Streets and Transit. The Fleet Replacement Fund 5409 will be reimbursed by the purchasing departments via transfers.

A budget adjustment in the amount of $90,000 is necessary in the Fleet Fund (5400) to account for unanticipated repair and maintenance costs. The increase in budget is covered by Fund 5400 reserves and will be recouped from the appropriate departments in two years using the Internal Service Fund (ISF) allocation model.

The following adjustments are being made from the various city Fleet Replacement sub-funds to the Fleet Replacement Fund (5409). This action is being done to correct prior year transactions and to reimburse the Fleet Replacement Fund (5409) for vehicle purchases that had been made as required by fund accounting rules. Below is a table showing the net effect in each sub-fund as a result of the various adjustments.

<table>
<thead>
<tr>
<th>Fund</th>
<th>Fund Name</th>
<th>Net Impact of Adjustments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1139</td>
<td>CDBG Direct Program Fleet Replacement Fund</td>
<td>$13,355</td>
</tr>
<tr>
<td>1709</td>
<td>Surface Transportation Fleet Replacement</td>
<td>$1,208,679</td>
</tr>
<tr>
<td>4109</td>
<td>Water Fleet Replacement Fund</td>
<td>$441,975</td>
</tr>
<tr>
<td>4219</td>
<td>Wastewater Fleet Replacement Fund</td>
<td>$7,031</td>
</tr>
<tr>
<td>4319</td>
<td>Airport Fleet Replacement Fund</td>
<td>$34,545</td>
</tr>
<tr>
<td>4549</td>
<td>Bus Fixed Route Fleet Replacement Fund</td>
<td>$54,307</td>
</tr>
<tr>
<td>4899</td>
<td>Solid Waste Fleet Replacement Fund</td>
<td>$952,013</td>
</tr>
<tr>
<td>5129</td>
<td>Mail Services ISF Fleet Replacement Fund</td>
<td>($1)</td>
</tr>
<tr>
<td>5410</td>
<td>GF Equipment Replacement</td>
<td>$1,062,070</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$3,773,973</strong></td>
</tr>
</tbody>
</table>

A budget adjustment is necessary to establish a transfer in the amount of $29,465 from CDBG Direct Program Fleet Replacement Fund 1139 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (2) Mid-size Sedan.

A budget adjustment is necessary to correct a transfer from CDBG Direct Program Fleet Replacement Fund 1139 to the Fleet Replacement Fund 5409 by decreasing the amount by $16,110 for purchases made in FY16/17: (1) Mid-size Sedan.

A budget adjustment is necessary to establish a transfer in the amount of $1,226,977 from Surface Transportation Fleet Replacement Fund 1709 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Truck w/ Aerial Bucket, (2)
Concrete Grinder, (2) Concrete Grinder Push Truck, (2) Sweeper, (2) Truck w/ hot patch body.

A budget adjustment is necessary to correct a transfer from Surface Transportation Fleet Replacement Fund 1709 to the Fleet Replacement Fund 5409 by decreasing the amount by $18,298 for purchases made in FY16/17: (2) Concrete Grinder, (2) Concrete Push Truck Grinder.

A budget adjustment is necessary to establish a transfer in the amount of $484,147 from Water Fleet Replacement Fund 4109 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (5) ¾ Ton Xtra Cab Truck, (1) Backhoe 4-wheel drive, (1) Trailer for Chlorine, (1) 1-Ton Utility Truck, (1) ¾ Ton Extended Cab Utility Truck, (3) ¾ Extra Cab Utility Trucks.

A budget adjustment is necessary to correct a transfer from Water Fleet Replacement Fund 4109 to the Fleet Replacement Fund 5409 by decreasing the amount by $42,172 for purchases made in FY16/17: (1) Trailer for Chlorine, (1) 3/4 Ton Utility Truck.

A budget adjustment is necessary to establish a transfer in the amount of $13,679 from Wastewater Fleet Replacement Fund 4219 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Mid-size Sedan.

A budget adjustment is necessary to correct a transfer from Wastewater Fleet Replacement Fund 4219 to the Fleet Replacement Fund 5409 by decreasing the amount by $6,648 for purchases made in FY16/17: (1) Loader with Claw Attachment.

A budget adjustment is necessary to establish a transfer in the amount of $34,545 from Airport Fleet Replacement 4319 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Mower Flail, (1) Riding Mower.

A budget adjustment is necessary to establish a transfer in the amount of $54,307 from Bus Fixed Route Fleet Replacement 4549 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Truck with Utility.

A budget adjustment is necessary to establish a transfer in the amount of $366,231 from Solid Waste Fleet Replacement Fund 4899 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Mid-size Sedan, (2) Truck with Aerial Bucket, (1) Water Truck, (2) Packer Truck.

A budget adjustment is necessary to correct a transfer from Solid Waste Fleet Replacement Fund 4899 to the Fleet Replacement Fund 5409 by decreasing the amount by $14,218 for purchases made in FY16/17: (1) Mid-size Sedan.

A budget adjustment is necessary to establish a transfer in the amount of $14,973 from Mail Services ISF Fleet Replacement Fund 5129 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Sedan Compact Wagon.

A budget adjustment is necessary to correct a transfer from Mail Services ISF Fleet Replacement Fund 5129 to the Fleet Replacement Fund 5409 by decreasing the amount by $14,974 for purchases made in FY16/17: (1) Sedan Compact Wagon.
A budget adjustment is necessary to establish a transfer in the amount of $1,260,613 from GF Fleet Replacement Fund 5410 to Fleet Replacement Fund 5409 for purchases made in FY16/17 and FY17/18: (1) Ball Field Conditioner, (9) Motorcycle, (1) Riding Mower, (24) Investigation Sedan, (1) Mid-size Sedan, (12) Patrol Sedan, (1) Self-propelled Sprayer, (4) SUV, (1) Truck with Stake-side Dump.

A budget adjustment is necessary to correct a transfer from GF Fleet Replacement Fund 5410 to the Fleet Replacement Fund 5409 by reducing the amount by $198,543 for purchases made in FY16/17: (10) Investigation Sedan Vehicles, (2) Investigation SUV.

UTILITIES

A budget adjustment is necessary to reduce the transfer from Wastewater Fund (4210) to Wastewater 2006A Revenue Bond Fund (4240) in the amount of $100,755; increase the transfer from Wastewater Fund (4210) to Wastewater 2018A Revenue Bond Fund (4271) in the amount of $176,240; increase the expense budget in the Wastewater 2006A Revenue Bond Fund (4240) by $95,000; and reduce the expense budget in the Wastewater 2018A Revenue Bond Fund (4271) by 18,760. This will allow the city to cover expenditures related to the 2018 refinancing of the Wastewater bond.

A budget adjustment is necessary to establish a transfer from the Water Fund (4100) to the Water CIP fund (4180) in the amount of $21,318,189 to cover FY17-18 Capital Improvement Plan (CIP) expense.

A budget adjustment is necessary to establish a transfer from the Wastewater Fund (4210) to the Wastewater 2015 Debt Refunding Fund (4241) in the amount of $2,773,207 to cover FY17-18 principal and interest payments associated with the 2015 refunding of Wastewater bonds.

A budget adjustment is necessary to establish a transfer from the Wastewater Fund (4210) to the Wastewater State Revolving Loan Tertiary Treatment Fund (4245) in the amount of $8,245,564 to cover FY17-18 principal and interest payments associated with the Tertiary Treatment plant.
FISCAL YEAR 2018-19

COMMUNITY ECONOMIC DEVELOPMENT

A budget adjustment is necessary to increase the Village One #2 CFD 2014 Debt fund, Fund 3294 expense budget by $973,350 for the increased principal payment in the fiscal year for call payment for Brooks Landing apartments. The increase in budget will be covered by Fund 3294 reserves.

OFFICE OF THE CITY AUDITOR

A budget adjustment is necessary to reverse the Appropriation Unit C reduction of $25,041 that was approved on the list of Mayor’s Approved Reductions and Adjustments as part of the FY 2018-19 Adopted Operating Budget. A reduction had already been accounted for thru the reclassification of the Executive Assistant position to Senior Auditor with a vacancy hold of 6 months and this amount of $25,041 was duplicative. This will increase account 0100-06010-54001 by $25,041 to correct the duplication.

A budget adjustment is necessary to increase the Appropriation Unit C expense account for Business Expenses by $6,200 in the Office of the City Auditor for FY 2018-19. As part of the contract for the hiring of the City Auditor position moving expenses were to be paid for by the City of Modesto. These invoices were not fully completed and paid until the new fiscal year (FY 2018-19) and therefore are required by accounting policies and procedures to be paid from budget in the fiscal year in which they are paid. Funds were budgeted for this expense in the prior year but did not carry forward and subsequently dropped to fund balance at the end of fiscal year 2017-18. This adjustment will re-appropriate those funds for their original purpose by increasing the expense budget for the Office of the City Auditor in account 0100-06010-53030 by $6,200 from FY 2017-18 General Fund carryover.

PARKS, RECREATION, AND NEIGHBORHOODS

A budget adjustment is necessary in PRN – Graffiti Abatement cost center to reduce the budget by $68,131 as it is a duplicated amount related to the direct charge agreement PW-MYAF. (0100-35170-51991)

A budget adjustment is necessary in the PRN – Parks, Planning and Development cost center for the addition of a Full-Time Parks Project Coordinator as part of the Parks (PRN) reorganization. The following accounts need to be updated within the cost center:

Expenses:

- 0100-32020-51401 increase $70,325
- 0100-32020-51901 increase $24,839
- 0100-32020-51040 decrease $26,460

Revenue
0100-32020-43501 increase $10,000
0100-32020-45004 increase $45,512

A budget adjustment is necessary to increase the John Thurman Field Capital Improvements project expenditure budget by $120,000. As part of the budget adoption for the multi-year projects, the revenue budget for this project (#101019) was increased by $120,000 per the contract that the City has with the Modesto Nuts. The expenditure budget should have been increased by the same amount for FY 2018-19. This adjustment will appropriately match the revenue and expenditure budgets in FY 2018-19 by increasing the expenditure budget by $120,000 for Project 101019 – John Thurman Field Capital Improvements in the Non-CIP Capital expense account.

POLICE DEPARTMENT

A budget adjustment is necessary to clean up the Stanislaus Drug Enforcement Agency (SDEA) JPA budget as the City of Modesto is no longer the fiduciary. Of the $723,072 budgeted, $504,666 will be eliminated as the positions have been eliminated. Another $97,148 in ISF costs will be moved to General Fund within the MPD – Field Operations cost center which will come from General Fund Emergency Reserves. The remaining balance of $121,258, which is the salary, benefits and ISF costs for one Senior Crime Analyst, will be moved to a new cost center within the Grants – Police Fund (1342) with matching revenue as this position will remain with SDEA with funding through CalMMET (California Multi-Jurisdictional Methamphetamine Enforcement Team) grants.

A budget adjustment is necessary to add $50,000 in Overtime to the MPD SDEA cost center (0100-19210) with matching revenues so there will be no impact on the General Fund. In turn the SDEA HIDTA (High Intensity Drug Trafficking Area) Grant cost center (1342-19212) will also be increased by $50,000 for the overtime with matching revenue from HIDTA reimbursement.

A budget adjustment is necessary to amend the MPD Asset Forfeiture budget (0100-19465) by increasing both the revenue and a transfer out to fund 3120 in the amount of $180,000. This was originally approved by council on 5/2/17 for the Records Management System project with Resolution number 2017-168 but since the project has not hasn’t been completed the budget needs to be re-established in FY 18-19.

PUBLIC WORKS

A budget adjustment is necessary to increase revenues due to the approval of the Maximum Rate Schedule effective 7/1/18 for the City Solid Waste Collection Services on 6/12/18 by Council in the amounts listed below:

- Solid Waste Fund in the amount of $409,600,
- Green Waste Fund in the amount of $771,671
- Carpenter Road Landfill Fund in the amount of $74,498

A budget adjustment is necessary to recognize unbudgeted revenue in the amount of $301,200 for Capital Improvement Project #100967 – HSIP Cycle 6 High Friction Surface Treatment
within Fund 3160, Capital Grants-Streets CIP Projects as additional funding was recently awarded by the Department of Transportation (Caltrans). Additionally, a transfer of $33,600 need to be established from the Surface Transportation Fund (1700) reserves to the project for the local match portion of the funding. The total increase in budget of $334,800 will be allocated to the projects discretionary expense tasks.
RESOLUTION APPROVING A FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ARMISTEAD RESEARCH AND INVESTIGATIVE SERVICES IN THE AMOUNT OF $54,000, FOR A TERM TO EXPIRE ON JANUARY 31, 2019 FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED $157,200 FOR CONSULTANT SERVICES WITH RESPECT TO ADMINISTRATIVE INVESTIGATIONS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 23, 2018, by Resolution No. 2018-53, Council approved an agreement with Armistead Research and Investigative Services for a term of November 9, 2017 through September 30, 2018 for internal administrative investigation services, in the amount of $103,200, and

WHEREAS, a discrepancy has been discovered in the previously ratified expense amount taken to Council on January 23, 2018, and

WHEREAS, the City has a need to continue these services for confidential investigations, and

WHEREAS, staff recommends the City amend the professional services agreement Armistead Research and Investigative Services to correct the discrepancy and approve the continued services.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Modesto hereby approves a First Amendment to the professional services agreement with Armistead Research and Investigative Services in the amount of $54,000, for a term to expire on January 31, 2019 for a total agreement amount not to exceed $157,200 for consultant services with respect to administrative investigations.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the First Amendment, in a form approved by the City Attorney.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE FIRST AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT WITH AARONSON MANAGEMENT GROUP, INC. (DBA STORYPOWERED) FOR PHASE II WORK ON THE CONVENTION AND VISITOR’S BUREAU TRANSITION TO AN INDEPENDENT AGENCY, IN AN AMOUNT NOT TO EXCEED $52,500, FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED $102,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, in June 2015, the City Council adopted Resolution No. 2015-224 assigning the duties and functions of the Convention and Visitor’s Bureau (CVB) to the Community and Economic Development Department, and

WHEREAS, in September 2015, the Destination Modesto Task Force (Task Force) was formed to review and make recommendations on how to structure the entity responsible for marketing Modesto and its many venues and attractions, including John Thurman Field, three (3) City-owned golf courses, McHenry Mansion, McHenry Museum, Modesto Centre Plaza, and the CVB, and

WHEREAS, the Task Force agreed that marketing Modesto should include: 1) results oriented management, 2) comprehensive and coordinated marketing, 3) regional collaboration and partnership, 4) performance measured by economic growth potential, and 5) entrepreneurial spirit, and

WHEREAS, recommendations have been made, exercised, or are on-going pertaining to John Thurman Field, Modesto Centre Plaza, the three (3) City-owned golf courses, and the McHenry Mansion and McHenry Museum, and

WHEREAS, Resolution No. 2018-107 initiated the start of moving forward to have a fully functioning CVB, and restoring it as an independent agency, and
WHEREAS, steps toward restoring the CVB include hiring a consultant to oversee the transition and activities of the Convention and Visitor’s Bureau, establishing the Mayor and Council and the Interim Board of Directors, and drafting an agreement to provide funding from the Transient Occupancy Tax, using the previous agreement as a guide, and

WHEREAS, on March 27, 2018, the City executed an Agreement for Consultant Services with Aaronson Management Group, Inc. (DBA StoryPowered) (Agreement), to oversee Phase I of the CVB transition, and

WHEREAS, Phase I is complete and included a SWOT Analysis Draft and Comprehensive Set Audit, Draft By Laws, Draft Business Plan, Draft Zero-Based Budget and a revised budget, and

WHEREAS, the cost of Phase I was $47,500 plus reimbursable expenses, and

WHEREAS, City desires to amend the Agreement to include Phase 2, the second and final phase, leading to the launch of a new Convention and Visitors Authority in early 2019, and

WHEREAS, the cost of Phase II is $47,500 plus reimbursable expenses in an amount not to exceed $5,000, and

WHEREAS, funding for Phase II is budgeted in the Fiscal Year 2018-2019 Operating budget of the Convention & Visitors Bureau in the General Fund (0100-34300-53300).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the Consultant Services Agreement with Aaronson Management Group, Inc. (DBA StoryPowered), for Phase II work on the
Convention and Visitor’s Bureau transition to an independent agency, in an amount not to exceed $52,500, for a total agreement amount not to exceed $102,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the First Amendment to the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
RESOLUTION ACCEPTING THE 2018/2019 ALCOHOL POLICING PARTNERSHIP GRANT IN THE AMOUNT OF $57,000 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR MINOR DECOY, SHOULDER TAP, AND IMPACT INSPECTIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department desires to undertake a certain project designated as the Modesto ABC Project to be funded in part from 2018/2019 Alcohol Policing Partnership Grant, and

WHEREAS, the Police Department was awarded a grant in the sum of $57,000 from the State Department of Alcoholic Beverage Control (ABC) for Minor Decoy, Shoulder Tap, and IMPACT Inspections, and

WHEREAS, acceptance of said $57,000 grant will allow the Modesto Police Department to work proactively to address alcohol related crimes in the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2018/2019 Alcohol Policing Partnership Grant in the amount of $57,000 from the State Department of Alcoholic Beverage Control to reduce crimes related with the sales, distribution and access to alcoholic beverages by minors.

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 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

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. 2018-364

RESOLUTION AMENDING THE FISCAL YEAR 2018/2019 OPERATING BUDGET, AND REALLOCATING REVENUE OF $57,000 TO GRANT EXPENDITURES FOR THE 2018-2019 ALCOHOL POLICING PARTNERSHIP GRANT

WHEREAS, the Police Department acquired a grant award in the amount of $57,000 from the State Department of Alcoholic Beverage Control for Minor Decoy Program, Shoulder Tap, Investigation/Enforcement, Education/Training and Impact Inspections relating to the 2018/2019 Alcohol Policing Partnership Grant Program to reduce crime related with sales, distribution and access to alcoholic beverages by minors, and

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

WHEREAS, the Fiscal Year 2018/2019 Operating Budget will be amended as shown on Exhibit A, which is attached to this resolution and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2018/2019 Operating Budget as shown on the attached Exhibit A.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT A
Request for Budget Adjustment
(Projects and Grants)

Contact Person: Julie Hendee
Telephone: 572-9518
Submitting Department: Police
Project Name: ABC Grant FY18-19
Project Fund: 1342 - Police Grants

Council Action Date: 
Resolution Number: 
Date Submitted by Dept: 8/7/2018

Fiscal Year being Adjusted: FY2018-2019

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Justification for Budget Adjustment
This budget amendment is being made to: 1) Program ABC grant revenue and offsetting expenses in the amount of $57,000. This action will establish a new grant project account for the recently awarded Office of Traffic Safety (OTS) 2018-19 Alcoholic Beverage Control (ABC) Grant. Grant funding will be used to fund operation to reduce crimes related to the sales, distribution and access of alcoholic beverages by minors.

Authorization

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<th>Administrative Services Officer (if needed)</th>
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Department Director or Authorized Designee

Financial Analyst

Finance Director

City Manager

To be Completed by Finance Staff

Transfer Number: ________________________________  Completed By: ________________________________
RESOLUTION APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $5,257,527 IN FTA SECTION 5307 FUNDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AND FILE ALL OTHER NECESSARY DOCUMENTS WITH THE FTA

WHEREAS, the Federal Transit Administration (FTA) has been a delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances required by the FTA to be eligible for funding under 49 U.S.C Section 5307, and

WHEREAS, the projects are included in the 2017 Federal Transportation Improvement Program (FTIP) adopted by the Stanislaus Council of Governments (StanCOG), and

WHEREAS, the projects are also included in the 2019 FTIP draft awaiting approval by StanCOG, and

WHEREAS, Modesto is eligible to use federally approved Transportation Development Credits, formerly known as “State Toll Credits”, in lieu of a local match, and

WHEREAS, these Section 5307 funds will be used for preventative maintenance, preventive maintenance for transit improvements, capital cost of contracting for Stanislaus County, and capital cost of contracting for Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application to the FTA for $5,257,527 in Section 5307 funds.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file all other documents the FTA requires for awarding a federal assistance grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

SEAL

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2018-366

RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF NEW EMERGENCY VEHICLE PRE-EMPTION EQUIPMENT FROM ADVANCED TRAFFIC PRODUCTS INC., EVERETT, WASHINGTON FOR A TOTAL COST NOT TO EXCEED $555,843, AND AUTHORIZING THE PURCHASING MANAGER, OR HER, DESIGNEE, TO ISSUE A PURCHASE ORDER

WHEREAS, on May 24, 2016 Council approved Measure L projects which included the purchase of new Emergency Vehicle Pre-emption (EVP) equipment from Advanced Traffic Products Inc., Everett, Washington, and

WHEREAS, purchase of this equipment is the first step in making our traffic signal network ready for future adaptive traffic signal system, and

WHEREAS, Purchasing Division secured bids for the purchase of new Emergency Vehicle Pre-emption equipment to communicate with the new 2070 controllers, and

WHEREAS, City staff has reviewed the bids and Advanced Traffic Products Inc., was the lowest responsive and responsible bidder, and

WHEREAS, the Public Works Director and the City Manager have recommended that the bid of $555,843 received from Advanced Traffic Products Inc., be accepted and the purchase be awarded to Advanced Traffic Products Inc., Everett, Washington, and

WHEREAS, sufficient funds for new Emergency Vehicle Pre-emption equipment to communicate with the new 2070 controllers have been funded through the Highway Safety Improvement Program Grant, as well as local match thru Measure L Funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase new Emergency Vehicle Pre-emption equipment for
traffic signals from Advanced Traffic Products Inc., Everett, Washington in an amount not to exceed $555,843.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is authorized to issue a purchase order for a total cost not to exceed $555,843.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephamie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
RESOLUTION APPROVING THE SOLE BRAND PROCUREMENT OF A CATERPILLAR TIER 4F C27 ENGINE, OR EQUIVALENT ENGINE APPROVED BY THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (SJVAPCD), TO HOLT OF CALIFORNIA, FOR THE REPOWER OF THE COMPOST DIAMOND Z DZH5000 HORIZONTAL GRINDER TO BE IN COMPLIANCE WITH RULE 4702 – INTERNAL COMBUSTION ENGINES, FOR A TOTAL COST NOT TO EXCEED $288,543, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE TO ISSUE THE PURCHASE ORDER

WHEREAS, in 2007 the Compost Facility purchased a Diamond DZH5000 Horizontal Wood Grinder equipped with a 1050 horsepower Caterpillar C27 Tier 2 diesel powered engine to enable the facility to grind and process approximately 65,000 tons of residential and commercial greenwaste, foodwaste, and forestry materials, and

WHEREAS, in 2003 the Air Board adopted Rule 4702 – Internal Combustion Engines, which required different engine certification upgrades for internal combustion engines by certain due dates, and

WHEREAS, Rule 4702 has been amended over the years and the last amendment in 2013 required all non-emergency use Tier 1 and Tier 2 EPA certified diesel internal combustion engines rated great than 50 horsepower to be removed from service as of June 1, 2018, and

WHEREAS, on July 11, 2018, the Compost Facility received a Notice of Violation (NOV) from the San Joaquin Valley Air Pollution Control District (SJVAPCD) for the Grinder’s 1050 horsepower Caterpillar C27 Tier 2 diesel powered engine being in violation of Rule 4702, and on July 26, 2018, a second NOV was issued for the grinder being in violation of exceeding the daily hourly limit on that engine, and both NOV’s are subject to penalties, and
WHEREAS, under Rule 4702, 4 options are listed as acceptable methods for compliance, and

WHEREAS, Option 1 is to purchase a new grinder with the proper Tier 4F diesel engine which would cost approximately $900,000; Option 2 is to buy an electric grinder which cost over $2,000,000 for the construction of the substation to power the grinder and the purchase of the grinder; Option 3 is to limit the operations of the current grinder to 200 hours per calendar year, which would not be feasible for our size operation; and Option 4 is to replace the grinder’s engine and related components to a Tier 4F SJVAPCD approved engine which would cost $288,543, and

WHEREAS, Option 4 is the most prudent choice for the City at this time, and after receiving the NOV the City had 10 days to respond and advise the SJVAPCD how we would be proceeding, and

WHEREAS, staff has located an engine with Caterpillar, the engine manufacturer, through the local dealer, Holt of California, that will meet the Tier 4F engine specifications as required by the SJVAPCD, and

WHEREAS, this engine will take approximately 14 weeks to order and up to 2 months to install, and

WHEREAS this particular piece of equipment was never added to the Fleet Replacement Fund in 2007 so there are no allocated funds for its replacement, however, the Fleet Replacement Fund can be used for the engine replacement and then the funds expended will be recovered by the Compost Fund through future depreciation payments, in addition to new replacement funds, and
WHEREAS, this 1050 horsepower Caterpillar C27 Tier 4F diesel powered engine is a sole brand procurement due to the fact that the SJVAPCD is much more likely to approve the engine quickly as the original manufacturer tested and approved this engine to work on this equipment, saving countless hours of fabrication time to make another engine that was not specifically designed for this equipment, and

WHEREAS, Holt of California and Caterpillar are territorial so no vendor except the local branch will be able to sell this engine to the City of Modesto, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, however, Section 8-3.204 provides exemptions to the formal bid process. Modesto Municipal Code Section 8-3.204(d) states “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, such alternatives may include, but are not limited to, a "two-step" procurement process or a procurement based solely on a technical evaluation.” In addition, Section 8-3.204(c) states “Where the Purchasing Manager, in his or her discretion, determines that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances”. The purchase of the Caterpillar Tier 4F C27 Engine from Holt of California conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sole brand procurement of a Caterpillar 4F C27 Engine, or
equivalent engine approved by the San Joaquin Valley Air Pollution Control District, to Holt of California, for the repower of the Compost Diamond Z DZH5000 Horizontal Grinder to be in compliance with the SJVAPCD Rule 4702 – Internal Combustion Engines, for a total cost not to exceed $288,543.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is authorized to issue the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4\textsuperscript{th} day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

\begin{itemize}
  \item \textbf{AYES}: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold
  \item \textbf{NOES}: Councilmembers: None
  \item \textbf{ABSENT}: Councilmembers: None
\end{itemize}

\begin{center}
\textbf{ATTEST:} \hspace{1cm} \textbf{STEPHANIE LOPEZ, City Clerk}
\end{center}

(SEAL)

\begin{center}
\textbf{APPROVED AS TO FORM:} \hspace{1cm} \textbf{ADAM U. LINDGREN, City Attorney}
\end{center}
RESOLUTION APPROVING THREE ON-CALL REAL PROPERTY
APPRAISAL AND CONSULTANT SERVICES AGREEMENTS WITH
ASSOCIATED RIGHT OF WAY SERVICES, INC., OF PLEASANT HILL, CA;
BENDER ROSENTHAL INC., OF SACRAMENTO, CA; AND DEAN CHAPMAN
& ASSOCIATES, INC. DBA CHAPMAN & PATTON, OF DANVILLE, CA FOR
AN ANNUAL AMOUNT NOT TO EXCEED $45,000 EACH, WITH TWO ONE-
YEAR EXTENSION OPTIONS EACH, FOR A TOTAL AMOUNT NOT TO
EXCEED $135,000 PER CONSULTANT AGREEMENT

WHEREAS, real property, construction easements and/or public utility easements
are frequently needed as part of Capital Improvement Projects, and

WHEREAS, professional appraisals are required on an “as-needed” basis for
these purposes, and

WHEREAS, review of appraisals may be required by Federal and State funding
related to City projects, and

WHEREAS, appraisal values establish just compensation, as required by law, for
each property acquisition, and

WHEREAS, on May 18, 2018, in compliance with Administrative Directive 3.1,
Selection Procedures for Professional Consultants Who Provide Architectural and
Engineering Services for Capital Projects, a Request for Qualifications and Proposals was
initiated to perform on-call real property appraisal and consultant services, and

WHEREAS, responses were received from eight firms and reviewed by a
selection committee who chose three firms as the most qualified to provide real property
appraisal and consulting services to the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves agreements with the following three firms: Associated Right of
Way Services, Inc., Bender Rosenthal Inc., and Dean Chapman & Associates, Inc. dba Chapman & Patton for On-Call Real Property Appraisal and Consultant Services for one year each, with two one-year extension options each at the sole discretion of the City in an amount not to exceed $45,000 per year, with a total cost for three years not to exceed $135,000 per consultant agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreements, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2;
and

WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article I, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, *et seq.*), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests consisting of a permanent roadway easement and a 24-month temporary construction easement, from property located at 219 Garrison Avenue, Modesto, California (APN 007-042-007), as more particularly described and depicted in
Exhibit A attached hereto and made a part hereof by this reference, for the construction of the Project; and

WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary;

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein.

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.
5. The City has complied with all conditions and statutory requirements, including those prescribed by CEQA and NEPA, that are necessary for approval and adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.
BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true and correct, and all the findings and determinations made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Madrigal

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT “A”
Road Easement

SR132 Phase 1 Construction Project
Menghetti 2000 Revocable Trust to City of Modesto
APN: 007-042-007

Legal description:

ALL that certain real property, being a portion of Parcel 'A', as shown on that certain map, filed for record on May 21, 1975 in Book 21 of Parcel Maps, at Page 29, Stanislaus County Records, and as described in Grant Deed to Peter A. Menghetti and Kathleen Menghetti, Trustees of the Menghetti 2000 Revocable Trust under instrument dated November 3, 2000, filed for record November 14, 2000 as Document No. 2000-0096445, Stanislaus County Records, and situate in the Northwest quarter of Section 35, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying northerly and westerly of course (4) thru (9) of the following described line:

COMMENCING at a concrete monument with a 3" square brass plate in a monument well at the northwest corner of said Section 35, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2" iron pipe with brass cap in a monument well at the West 1/4 corner of Section 26 of said Township and Range, as shown on said Record of Survey, bears North 00°43'51" West 2639.81 feet; thence South 53°01'37" West 24.99 feet to a point lying within the right-of-way of Maze Boulevard (State Highway Route 132), said point being the TRUE POINT OF BEGINNING;

thence (1), parallel with and 20.00 feet distant at right angles from the West line of said Parcel A South 00°07'35" East 202.98 feet;

thence (2), North 89°55'20" East 20.00 feet to a point on said West line;

thence (3), along said West line North 00°07'35" West 4.47 feet;

thence (4), leaving said West line and proceeding North 89°52'25" East 5.00 feet;

thence (5), thence parallel with and 5.00 feet distant at right angles from said West line North 00°07'35" West 5.00 feet to the beginning of a non-tangent curve concave to the East having a radius of 187.00 feet, to which beginning a radial line bears South 89°42'36" West;

thence (6), northerly 67.10 feet along the arc of said non-tangent curve through a central angle of 20°33'35" to the beginning of a non-tangent curve concave to the West having a radius of 210.33 feet, to which beginning a radial line bears South 69°35'33" East;
thence (7), northerly 77.62 feet along the arc of last said non-tangent curve through a central angle of 21°08'36;

thence (8), along a non-tangent line North 00°39'49" West 4.74 feet;

thence (9), northeasterly 55.02 feet along the arc of a curve concave to the southeast having a radius of 35.00 feet, through a central angle of 90°03'49" to a point lying within said right-of-way of Maze Boulevard, and the terminal point of this description, said terminal point bears South 67°41'35" East 70.04 feet from aforementioned Northwest corner of Section 35;

Containing (3,864 square feet Grid), 3,865 square feet [0.09 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946

[Signature]

4/12/18
EXHIBIT 'B'  
ROAD EASEMENT

3"x3" BRASS PLATE ON CONC. MON. IN MON. WELL AT NW CORNER SECTION 35 
POINT OF COMMENCEMENT

SEC. 26
APN 007-024-005

SEC. 27
APN 007-022-013

APN 007-024-006

DAKOTA Ave.

Maze

Blvd. (SR 132)

SEC. 34
APN 007-053-001

SEC. 35
APN 007-053-002

PARCEL 'A' 21-PM-29
APN 007-053-003
APN 007-053-004
APN 007-053-005
APN 007-053-006

SEC. 35
SEE SHEET 2

GARRISON Ave.

MID LATERAL NO. 4

50' M.I.D. EASEMENT 2732-O.R.-703

APN 007-042-008

APN 007-042-007

M.I.D. EASEMENT DOC.#2007-0049029

PLAT TO ACCOMPANY LEGAL DESCRIPTION

BEING A PORTION OF PARCEL 'A' PER 21-PM-29, S.C.R., NW 1/4 OF SEC. 35, T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY  CALIFORNIA
EXHIBIT “A”
Temporary Construction Easement

SR132 Phase 1 Construction Project
Menghetti 2000 Revocable Trust to City of Modesto
APN: 007-042-007

Legal description:

ALL that certain real property, being a portion of Parcel ‘A’, as shown on that certain map, filed for record on May 21, 1975 in Book 21 of Parcel Maps, at Page 29, Stanislaus County Records, and as described in Grant Deed to Peter A. Menghetti and Kathleen Menghetti, Trustees of the Menghetti 2000 Revocable Trust under instrument dated November 3, 2000, filed for record November 14, 2000 as Document No. 2000-0096445, Stanislaus County Records, and situate in the Northwest quarter of Section 35, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying northerly and westerly of course (4) thru (10) of the following described line:

COMMENCING at a concrete monument with a 3” square brass plate in a monument well at the northwest corner of Section 35, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2” iron pipe with brass cap in a monument well at the West 1/4 corner of Section 26 of said Township and Range, as shown on said Record of Survey, bears North 00°43’51” West 2639.81 feet; thence South 53°01’37” West 24.99 feet to a point lying within the right-of-way of Maze Boulevard (State Highway Route 132), said point being the TRUE POINT OF BEGINNING;

thence (1), parallel with and 20.00 feet distant at right angles from the West line of said Parcel A South 00°07’35” East 202.98 feet;

thence (2), North 89°55’20” East 20.00 feet to a point on said West line;

thence (3), along said West line South 00°07’35” East 5.53 feet;

thence (4), leaving said West line and proceeding North 89°52’25” East 17.09 feet;

thence (5), North 12°08’34” East 13.76 feet to the beginning of a non-tangent curve concave to the East having a radius of 172.00 feet, to which beginning a radial line bears South 89°10’37” West;

thence (6), northerly 63.30 feet along the arc of said curve through a central angle of 21°05’13” to the beginning of a non-tangent curve concave to the West having a radius of 225.33 feet, to which beginning a radial line bears South 69°35’50” East;
thence (7), northerly 83.12 feet along the arc of said curve through a central angle of 21°08'10";

thence (8), along a non-tangent line North 00°39'49" West 4.73 feet;

thence (9), northeasterly 31.49 feet along the arc of a curve concave to the southeast having a radius of 20.00 feet, through a central angle of 90°12'12";

thence (10), along a non-tangent line North 00°27'37" West 12.26 feet to a point on the North line of said Parcel 'A', being also a point on the South right-of-way line of said Maze Boulevard, and the terminal point of this description, said terminal point bears South 65°41'23" East 71.22 feet from aforementioned Northwest corner of Section 35;

EXCEPTING THEREFROM the real property lying northerly and westerly of course (14) thru (19) of the following described line:

COMMENCING at a concrete monument with a 3" square brass plate in a monument well at the northwest corner of said Section 35, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2" iron pipe with brass cap in a monument well at the West 1/4 corner of Section 26 of said Township and Range, as shown on said Record of Survey, bears North 00°43'51" West 2639.81 feet; thence South 53°01'37" West 24.99 feet to a point lying within the right-of-way of Maze Boulevard (State Highway Route 132), said point being the True Point Of Beginning;

thence (11), parallel with and 20.00 feet distant at right angles from the West line of said Parcel A South 00°07'35" East 202.98 feet;

thence (12), North 89°55'20" East 20.00 feet to a point on said West line;

thence (13), along said West line North 00°07'35" West 4.47 feet;

thence (14), leaving last said West line and proceeding North 89°52'25" East 5.00 feet;

thence (15), thence parallel with and 5.00 feet distant at right angles from said West line North 00°07'35" West 5.00 feet to the beginning of a non-tangent curve concave to the East having a radius of 187.00 feet, to which beginning a radial line bears South 89°42'36" West;

thence (16), northerly 67.10 feet along the arc of said non-tangent curve through a central angle of 20°33'35" to the beginning of a non-tangent curve concave to the West having a radius of 210.33 feet, to which beginning a radial line bears South 69°35'33" East;

thence (17), northerly 77.62 feet along the arc of last said non-tangent curve through a central angle of 21°08'36";
thence (18), along a non-tangent line North 00°39'49" West 4.74 feet;

thence (19), northeasterly 55.02 feet along the arc of a curve concave to the southeast having a radius of 35.00 feet, through a central angle of 90°03'49" to a point lying within said right-of-way of Maze Boulevard, and the terminal point of this description, said terminal point bears South 67°41'35" East 70.04 feet from aforementioned Northwest corner of Section 35;

Containing (3,123 square feet Grid), 3,123 square feet [0.07 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946
EXHIBIT 'B'
TEMPORARY CONSTRUCTION EASEMENT

APN 007-024-006

3" x 3" BRASS PLATE ON CONC. MON. IN MON. WELL AT NW CORNER SECTION 35 POINT OF COMMENCEMENT

SEE SHEET 2

PARCEL 'A'
21-PM-29

APN 007-053-001
APN 007-053-002
APN 007-053-003
APN 007-053-004
APN 007-053-005
APN 007-053-006
APN 007-053-010

M.I.D. EASEMENT
DOC.#2007-0049029

APN 007-042-007
APN 007-042-008
APN 007-042-001

50' M.I.D. EASEMENT
2732-O.R.-703

PARCEL 'B'
21-PM-29

M.I.D. LATERAL No. 4

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF PARCEL 'A' PER 21-PM-29, S.C.R., NW 1/4 OF SEC. 35, T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY
CALIFORNIA
RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF REAL PROPERTY DIRECTING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR THE STATE ROUTE 132 FREEWAY/EXPRESSWAY PHASE 1 PROJECT RE: SE CORNER OF KANSAS AVE. AND DAKOTA AVE., MODESTO, CA 95358 (APN 007-024-001), OWNER: DAVID FARIA AND GAIL FARIA, TRUSTEES OF THE DAVID FARIA AND GAIL FARIA REVOCABLE LIVING TRUST

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project (“Project”) proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG (“StanCOG Cooperative Agreement”) for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County (“City/County JPA”) to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation (“Caltrans”) approved the Environmental Document and selected Project Alternative 2;
and

WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article 1, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, et seq.), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests in fee and a 24-month temporary construction easement, from property located at the SE Corner of Kansas Ave. and Dakota Ave., Modesto, CA 95358 (APN 007-024-001), as more particularly described and depicted in Exhibit A attached hereto.
and made a part hereof by this reference, for the construction of the Project; and

WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act "(NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein,

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.

5. The City has complied with all conditions and statutory requirements,
including those prescribed by CEQA and NEPA, that are necessary for approval and adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true
and correct, and all the findings and determinations made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Madrigal

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT “A”
Right-of-Way

SR132 Phase 1 Construction Project
David A. Faria et ux to City of Modesto
APN: 007-024-001

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to David A. Faria and Gail M. Faria, husband and wife, as community property, filed for record January 4, 1995 as Instrument No. 95-0000350, Stanislaus County Records, and situate in the southwest 1/4 of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying westerly and northerly of courses (8) thru (12) of the following described line:

COMMENCING at a concrete monument with a 3” square brass plate in a monument well at the southwest corner of said Section 26, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2” iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, as shown on said Record of Survey, bears North 00°43’51” West 2639.81 feet; thence North 87°39’48” East 714.96 feet to the easterly terminus of the line labeled “1)N. 86°20’23”W., 130.217 meters” as shown in that certain Grant Deed to the State of California, filed for record May 16, 2001 as Document no. 2001-0051238, Stanislaus County Records, said terminus lying within the right-of-way of Maze Boulevard (State Highway Route 132), and being the TRUE POINT OF BEGINNING;

thence (1), along said line labeled “1)N. 86°20’23”W., 130.217 meters” North 86°20’32” West 427.22 feet;

thence (2), leaving said line labeled “1)N. 86°20’23”W., 130.217 meters” and proceeding North 00°00’00” East 0.03 feet;

thence (3), North 87°58’17” West 160.44 feet;

thence (4), North 52°54’59” West 83.49 feet to a point which is 62.50 feet distant at right angles from the West line of said southwest quarter of Section 26;

thence (5), thence parallel with said West line North 00°43’51” West 1608.21 feet;

thence (6), North 89°14’21” East 7.05 feet;

thence (7), North 00°43’24” West 75.00 feet, more or less, to a point on the South line of said Faria land;
thence (8), leaving last said South line and proceeding North 00°39'49" West 390.90 feet;

thence (9), North 14°12'55" East 233.96 feet;

thence (10), North 89°19'47" East 1062.37 feet;

thence (11), North 00°43'35" West 52.35 feet to the westerly extension of the future southerly right-of-way line of State Highway Route 132 labeled as "N89°21'00"E 2362.15", as said right-of-way line is shown on sheet 21 of State Highway map STA-132P PM 12.00;

thence (12), along said proposed southerly right-of-way line and said westerly extension North 89°21'16" East 3813.99 feet to the easterly terminus of the line labeled "N89°21'00"E 2362.15" as shown on said Sheet 21 and Sheet 22 of State Highway Map STA-132P PM 12.36, and the terminal point of this description, said terminal point bears South 88°38'38" East 5010.03 feet from aforementioned West 1/4 corner of Section 26.

Containing (327,494 square feet Grid), 327,538 square feet [7.52 acres] Ground more or less.

This conveyance is made for the purpose of a freeway and the grantor hereby relinquishes to the grantee any and all abutter's rights including access rights, appurtenant to grantors' remaining property, in and to said freeway, excepting therefrom the South 50 feet of course (9).

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946
2" IRON PIPE w/ BRASS CAP
IN MON. WELL AT W 1/4
CORNER SECTION 26

1/4 SECTION LINE
APN 081-031-013

S88°38'38"E 5010.03'(TIE)

SEE SHEET 3
APN 007-024-001
N00°39'49"W 390.90'

N00°43'35"W 52.35'

PROPOSED STATE
RIGHT-OF-WAY LINE

SEE SHEET 3
APN 007-024-006
APN 007-024-003

1/4 SECTION LINE

SEE SHEET 3
APN 007-024-001
N00°39'49"W 390.90'

N14°12'55"E 233.96'

N89°19'47"E 1062.37'

N89°21'16"E 3813.99'

MAZE BOULEVARD (SR 132)

GRID
N

1/4 SECTION LINE

THE TRUE POINT
OF BEGINNING

3"x3" BRASS PLATE ON CONC. MON. IN
MON. WELL AT SW CORNER SECTION 26

MAZE BOULEVARD (SR 132)

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SW 1/4 OF SECTION 26,
T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY
CALIFORNIA

SIGNATURE:
North Star
Engineering Group, Inc.

620 12th Street
Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB
DATE
SCALE
DRAWN
DESIGN
CHECK
SHEET

01
03

DRAWN:

1/17/1907

06/20/18

1"=400'

RG
RG
RG
03
EXHIBIT "B"
RIGHT-OF-WAY

KANSAS AVENUE

PROPOSED STATE
RIGHT-OF-WAY LINE

EXISTING STATE RIGHT-
OF-WAY LINE
1738-O.R.-653

APN 007-024-004

MAZE BOULEVARD (SR 132)

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SW 1/4 OF SECTION 26,
T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY
CALIFORNIA
EXHIBIT 'B'
RIGHT-OF-WAY

APN 081-031-013
1/4 SECTION LINE
CENTERLINE

KANSAS AVENUE

327,538 SQ.FT.
7.52 ACRES

30° MODESTO IRRIGATION
DISTRICT ACCESS EASEMENT
TRACT No. 138-ET, DOC.
No. 2007-0039068, S.C.R.
W52.35' N89°19'47" E
1062.37'
N89°21'16" E 3813.99'

APN 007-024-001

100° MODESTO IRRIGATION
DISTRICT EASEMENT
TRACT No. 138-ET, DOC.
No. 2007-0039068, S.C.R.

APN 007-024-006

31-S-22

ACCESS RIGHTS ACQUIRED
S.C.R. STANISLAUS COUNTY RECORDS
- S- RECORD OF SURVEY, BOOK & PAGE
APN ASSESSOR'S PARCEL NUMBER

1.1.1.1

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY CALIFORNIA
Parcel name: DAKOTA-KANSAS

North: 2055358.68
Line Course: N 87-36-48 E Length: 714.96
North: 2055387.83
Line Course: N 86-20-32 W Length: 427.22
North: 2055415.12
Line Course: N 87-58-17 W Length: 360.44
North: 2055420.79
Line Course: N 52-54-59 W Length: 82.49
North: 2055471.14
Line Course: N 00-43-51 W Length: 1608.21
North: 2057079.22
Line Course: N 00-43-51 W Length: 7.05
North: 2057079.31
Line Course: N 00-43-51 W Length: 75.00
North: 2057154.30
Line Course: N 00-39-49 W Length: 390.90
North: 2057545.18
Line Course: N 14-12-55 E Length: 233.96
North: 2057771.97
Line Course: N 09-19-47 E Length: 1052.37
North: 2057794.40
Line Course: N 00-43-51 W Length: 52.35
North: 2057836.75
Line Course: N 07-29-42 W Length: 0.00
North: 2057836.75
Line Course: N 09-21-16 E Length: 3813.99
North: 2057845.72
Line Course: N 00-38-39 W Length: 5010.03
North: 2057990.29
Line Course: S 00-43-51 E Length: 2639.81
North: 2055358.69

Perimeter: 16279.81 Area: 686,488 sq.ft. 15.76 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.02
Error North: 0.013
Precision 1: 613,990.50
Parcel name: APN 007-024-001 ROW

North: 2057998.52    East: 6397387.39
Line Course: N 09-18-41 E Length: 1302.27
North: 2058014.18    East: 6396689.56
Line Course: S 00-43-35 E Length: 175.98
North: 2057838.21    East: 6398561.81
Line Course: S 09-21-16 W Length: 129.99
North: 2057836.75    East: 6398689.56
Line Course: S 00-43-35 E Length: 52.35
North: 2057884.40    East: 6398652.48
Line Course: S 09-19-47 W Length: 1062.37
North: 2057771.97    East: 6397500.18
Line Course: S 14-12-55 W Length: 233.96
North: 2057545.18    East: 6397442.73
Line Course: S 00-39-49 E Length: 390.90
North: 2057154.30    East: 6397447.25
Line Course: S 09-14-71 W Length: 49.09
North: 2057153.65    East: 6397398.17
Line Course: N 00-43-51 W Length: 844.93
North: 2057098.51    East: 6397387.39

Perimeter: 4241.84    Area: 327,494 sq.ft. 7.52 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01    Course: S 25-06-27 E
Error North: -0.007    East: 0.003
Precision 1: 424,184.00
EXHIBIT “A”
Temporary Construction Easement

SR132 Phase 1 Construction Project
David A. Faria et ux to City of Modesto
APN: 007-024-001

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to David A. Faria and Gail M. Faria, husband and wife, as community property, filed for record January 4, 1995 as Instrument No. 95-0000350, Stanislaus County Records, and situate in the southwest 1/4 of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, being a strip of land 5.00 feet wide, the westerly, northwesterly and northerly line of which is coincident with courses (8) thru (10) of the following described line:

COMMENCING at a concrete monument with a 3” square brass plate in a monument well at the southwest corner of said Section 26, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2” iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, as shown on said Record of Survey, bears North 00°43’51” West 2639.81 feet; thence North 87°39’48” East 714.96 feet to the easterly terminus of the line labeled “1)N. 86°20’23”W., 130.217 meters” as shown in that certain Grant Deed to the State of California, filed for record May 16, 2001 as Document no. 2001-0051238, Stanislaus County Records, said terminus lying within the right-of-way of Maze Boulevard (State Highway Route 132), and being the TRUE POINT OF BEGINNING;

thence (1), along said line labeled “1)N. 86°20’23”W., 130.217 meters” North 86°20’32” West 427.22 feet;

thence (2), leaving said line labeled "1)N. 86°20’23”W., 130.217 meters" and proceeding North 00°00’00” East 0.03 feet;

thence (3), North 87°58’17” West 160.44 feet;

thence (4), North 52°54’59” West 83.49 feet to a point which is 62.50 feet distant at right angles from the West line of said southwest quarter of Section 26;

thence (5), thence parallel with said West line North 00°43’51” West 1608.21 feet;

thence (6), North 89°14’21” East 7.05 feet;
thence (7), North 00°43'24" West 75.00 feet, more or less, to a point on the South line of said Faria land;

thence (8), leaving last said South line and proceeding North 00°39'49" West 390.90 feet;

thence (9), North 14°12'55" East 233.96 feet;

thence (10), North 89°19'47" East 1062.37 feet;

thence (11), North 00°43'35" West 52.35 feet to the westerly extension of the future southerly right-of-way line of State Highway Route 132 labeled as "N89°21'00"E 2362.15", as said right-of-way line is shown on sheet 21 of State Highway map STA-132P PM 12.00;

thence (12), along said proposed southerly right-of-way line and said westerly extension North 89°21'16" East 3813.99 feet to the easterly terminus of the line labeled "N89°21'00"E 2362.15" as shown on said Sheet 21 and Sheet 22 of State Highway Map STA-132P PM 12.36, and the terminal point of this description, said terminal point bears South 88°38'38" East 5010.03 feet from aforementioned West 1/4 corner of Section 26.

TOGETHER with the following described property:

BEGINNING at the southerly terminus of course (11) of above-described line:

thence (13), along said course (11) North 00°43'35" West 52.35 feet to the westerly extension of said future southerly right-of-way line of State Highway Route 132 labeled as "N89°21'00"E 2362.15", as said right-of-way line is shown on sheet 21 of State Highway map STA-132P PM 12.00;

thence (14), along said westerly extension North 89°21'16" East 129.99 feet, more or less to a point on the East line of said Faria land;

thence (15), along last said East line South 00°43'35" East 121.99 feet;

thence (16), leaving last said East line and proceeding North 90°00'00" West 130.00 feet to a point on the southerly extension of aforementioned course (11);

thence (17), along last said southerly extension North 00°43'35" West 68.10 feet to the Point of Beginning.
The sidelines of said 5-foot wide strip to be shortened or lengthened to terminate at the South line of said Faria Land and said southerly extension of course (11).

Containing (24,166 square feet Grid), 24,169 square feet [0.55 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON"
(PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99886447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020. Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946
EXHIBIT 'B'
TEMPORARY CONSTRUCTION EASEMENT

2" IRON PIPE w/BRASS CAP
IN MON. WELL AT W.1/4
CORNER SECTION 26

KANSAS

AVENUE

SEE SHEET 3

APN 007-024-001

N00'39'49"W 390.90'

N00'43'35"W 52.35'

PROPOSED STATE
RIGHT-OF-WAY LINE

APN 007-024-006

SEE SHEET 3

SECTION LINE

APN 007-024-003

1/4 SECTION LINE

TAKE

1/4 SECTION LINE

MAZE BOULEVARD (SR 132)

DAKOTA Ave.

1608.21'

N00'43'51"W

N52'54'59"W 83.49'

N87'58'17"W 160.44'

N86'20'32"W 427.22'

EXIST. STATE RIGHT-OF-WAY LINE

TRUE POINT OF BEGINNING

3"x3" BRASS PLATE ON CONC. MON. IN
MON. WELL AT SW CORNER SECTION 26

N87'39'48"E 714.96'(TIE)

NorthStar
Engineering Group, Inc.

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SW 1/4 OF SECTION 26,
T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY
CALIFORNIA

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EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

KANSAS AVENUE

PROPOSED STATE RIGHT-OF-WAY LINE

EXISTING STATE RIGHT-OF-WAY LINE
1738-O.R.-653

APN 007-024-004

MAZE BOULEVARD (SR 132)

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SW 1/4 OF SECTION 26, T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY
CALIFORNIA
RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF REAL PROPERTY DIRECTING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR THE STATE ROUTE 132 FREeway/EXPRESSway PHASE 1 PROJECT RE: 824 DAKOTA AVENUE, MODESTO, CA 95358 (APN 081-031-013), OWNER: ALCAMO FARMS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2; and
WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article 1, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, et seq.), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests in fee from property located at 824 Dakota Avenue, Modesto, CA 95358 (APN 081-031-013), as more particularly described and depicted in Exhibit A attached hereto and made a part hereof by this reference, for the construction of the Project; and
WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act "(NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein,

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.

5. The City has complied with all conditions and statutory requirements, including those prescribed by CEQA and NEPA, that are necessary for approval and
adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true and correct, and all the findings and determinations made by the City Council pursuant to
this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Madrigal

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT “A”
RIGHT-OF-WAY

SR132 Phase 1 Construction Project
Alcamo Farms LLC to City of Modesto
APN: 081-031-013

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to Alcamo Farms, LLC, filed for record on August 8, 2000 as Document No. 2000-0064879, Stanislaus County Records, and situate in the Northwest quarter of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, and being more particularly described as follows:

COMMENCEING at a 2” iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, from which a 4” x 4” redwood post at the center 1/4 corner of said Section 26, as shown on that Record of Survey filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, bears North 89°18'40" East 2644.71 feet; thence North 25°48'26" East 91.03 feet to the most northerly point of Parcel No. 2, as described in a Grant Deed to the State of California, filed for record January 19, 1962 in Volume 1736 of Official Records, at Page 387, Stanislaus County Records, last said point being also a point on the easterly right-of-way line of Dakota Avenue (40 feet wide), and the TRUE POINT OF BEGINNING;

thence (1), along said easterly right-of-way line North 00°17'27" West 527.16 feet to the most southerly corner of Parcel No. 1 of said Grant Deed to the State of California;

thence (2), along the easterly line of said Parcel No. 1 the following two (2) courses:
North 09°06'41" East 54.70 feet;

thence (3), North 02°01'17" East 55.39 feet;

thence (4), leaving last said easterly line of Parcel No. 1 and proceeding South 01°22'47" West 27.58 feet;

thence (5), South 13°43'04" East 61.84 feet;

thence (6), South 04°50'51" East 123.18 feet;

thence (7), North 89°44'16" East 33.27 feet to the beginning of a curve concave to the southwest having a radius of 151.00 feet;

thence (8), southeasterly 128.70 feet along the arc of said curve through a central angle of 48°50'00";
thence (9), South 41°25'44" East 260.79 feet to the beginning of a curve concave to the northeast having a radius of 573.00 feet;

thence (10), southeasterly 493.24 feet along the arc of said curve through a central angle of 49°19'12";

thence (11), along a non-tangent line South 00°44'56" East 17.87 to a point on the North right-of-way line of Kansas Avenue (40 feet wide);

thence (12), along said North right-of-way line South 89°18'40" West 444.26 feet to the most easterly corner of aforementioned Parcel No. 2;

thence (13), leaving said North right-of-way line and proceeding along the North line of said Parcel No. 2 the following two (2) courses: North 86°12'01" West 318.01 feet;

thence (14), North 59°44'36" West 32.30 feet to the Point of Beginning.

Containing (170,764 square feet Grid) 170,787 square feet [3.92 acres] Ground, more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946

1/3/18
EXHIBIT 'B'  
RIGHT-OF-WAY

ROAD GRANTED IN FEE TO STATE OF CA, Vol. 1736, Pg. 387 O.R. (PARCEL No. 1)

ROAD GRANTED IN FEE TO STATE OF CA, Vol. 1736, Pg. 387 O.R. (PARCEL No. 3)

ROAD EASEMENT TO STANISLAUS COUNTY, Vol. 60, Pg. 485 O.R.

APN 081-030-018
APN 081-031-013
APN 007-024-001

KANSAS AVENUE

DAKOTA

170,787 SQ.FT.
3.92 ACRES

TRUE POINT OF BEGINNING

APN ASSESSOR'S PARCEL NUMBER
O.R. OFFICIAL RECORDS

PLAT TO ACCOMPANY LEGAL DESCRIPTION

BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 8 EAST, M.D.M.

STANISLAUS COUNTY
CALIFORNIA

JOB: J17-1907
DATE: 01/31/18
SCALE: 1" = 150'
DRAWN: RG
DESIGN: RG
CHECK: RG

NorthStar Engineering Group, Inc.
CIVIL ENGINEERING • SURVEYING • PLANNING •

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its
authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2; and

WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article 1, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, et seq.), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real
property interests in fee and for a 24-month temporary construction easement, from property located at 3643 and 3319 Maze Boulevard, and Kansas Avenue, Modesto, CA (APN 007-024-003, -004 & 007-037-010), as more particularly described and depicted in Exhibit A attached hereto and made a part hereof by this reference, for the construction of the Project; and

WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act "(NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein,

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together
with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.

5. The City has complied with all conditions and statutory requirements, including those prescribed by CEQA and NEPA, that are necessary for approval and adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said
condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true and correct, and all the findings and determinations made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Madrigal

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT A
EXHIBIT “A”

Right-of-Way

SR132 Phase 1 Construction Project
Nita Marie Wagner Living Trust to City of Modesto
APN: 007-024-003

Legal description:

ALL that certain real property, being a portion of Parcel No. 1, as described in Grant Deed to Nita Marie Wagner, as Trustee of the Nita Marie Wagner Living Trust, filed for record November 15, 1979 in Volume 3261 of Official Records, at Page 282, Instrument No. 79-3264, Stanislaus County Records, and situate in the South half of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying northerly of course (12) of the following described line:

COMMENCING at a concrete monument with a 3” square brass plate in a monument well at the southwest corner of said Section 26, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2” iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, as shown on said Record of Survey, bears North 00°43′51″ West 2639.81 feet; thence North 87°39′48″ East 714.96 feet to the easterly terminus of the line labeled "1)N. 86°20′23″W., 130.217 meters" as shown in that certain Grant Deed to the State of California, filed for record May 16, 2001 as Document no. 2001-0051238, Stanislaus County Records, said terminus lying within the right-of-way of Maze Boulevard (State Highway Route 132), and being the TRUE POINT OF BEGINNING;

thence (1), along said line labeled "1)N. 86°20′23″W., 130.217 meters" North 86°20′32″ West 427.22 feet;

thence (2), leaving said line labeled "1)N. 86°20′23″W., 130.217 meters" and proceeding North 00°00′00″ East 0.03 feet;

thence (3), North 87°58′17″ West 160.44 feet;

thence (4), North 52°54′59″ West 83.49 feet to a point which is 62.50 feet distant at right angles from the West line of said southwest quarter of Section 26;

thence (5), thence parallel with said West line North 00°43′51″ West 1608.21 feet;

thence (6), North 89°14′21″ East 7.05 feet;
thence (7), North 00°43'24" West 75.00 feet, more or less, to a point on the South line of the lands described in Grant Deed to David A. Faria and Gail M. Faria, husband and wife, as community property, filed for record January 4, 1995 as Instrument No. 95-0000350, Stanislaus County Records;

thence (8), leaving last said South line and proceeding North 00°39'49" West 390.90 feet;

thence (9), North 14°12'55" East 233.96 feet;

thence (10), North 89°19'47" East 1082.37 feet;

thence (11), North 00°43'35" West 52.35 feet to the westerly extension of the future southerly right-of-way line of State Highway Route 132 labeled as "N9°21'00"E 2362.15", as said right-of-way line is shown on sheet 21 of State Highway map STA-132P PM 12.00;

thence (12), along said proposed southerly right-of-way line and said westerly extension North 89°21'16" East 3813.99 feet to the easterly terminus of the line labeled "N89°21'00"E 2362.15" as shown on said Sheet 21 and Sheet 22 of State Highway Map STA-132P PM 12.36, and the terminal point of this description, said terminal point bears South 88°36'38" East 5010.03 feet from aforementioned West 1/4 corner of Section 26.

Containing (233,304 square feet Grid), 233,336 square feet [5.36 acres] Ground more or less.

This conveyance is made for the purpose of a freeway and the grantor hereby relinquishes to the grantee any and all abutter's rights including access rights, appurtenant to grantors' remaining property, in and to said freeway.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.999866447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946
EXHIBIT 'B'
RIGHT-OF-WAY

APN 081-031-013
1/4 SECTION LINE

KANSAS AVENUE

APN 007-024-001

APN 007-024-003

APN 007-024-006

.30' MODESTO IRRIGATION DISTRICT ACCESS EASEMENT
TRACT No. 139-EA, DOC.
No. 2010-0088387, S.C.R.

PROPOSED STATE RIGHT-OF-WAY LINE

100' MODESTO IRRIGATION DISTRICT EASEMENT
TRACT No. 139-ET, DOC.
No. 2010-0088387, S.C.R.

233,336 SQ.FT.
5.36 ACRES

N89°21'16"E 3813.99'

ACCESS RIGHTS ACQUIRED
S.C.R. STANISLAUS COUNTY RECORDS
S- RECORD OF SURVEY, BOOK & PAGE
P.U.E. PUBLIC UTILITY EASEMENT
APN ASSESSOR'S PARCEL NUMBER

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SOUTH 1/2 OF SECTION 26,
T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY  CALIFORNIA
Percol name: DAKOTA-KANSAS

North: 2055358.60 East: 6397400.60
Line Course: N 87-39-48 W Length: 714.96
North: 2055387.83 East: 6398114.97
Line Course: N 36-20-32 W Length: 427.22
North: 2055415.09 East: 6397688.62
Line Course: N 00-00-00 E Length: 0.03
North: 2055415.12 East: 6397688.62
Line Course: N 87-58-17 W Length: 160.44
North: 2055420.79 East: 6397528.28
Line Course: N 52-54-59 W Length: 83.49
North: 2055471.14 East: 6397441.16
Line Course: N 00-43-51 W Length: 1608.21
North: 2057079.27 East: 6397448.21
Line Course: N 00-43-24 E Length: 75.00
North: 2057154.30 East: 6397461.16
Line Course: N 00-39-49 W Length: 390.90
North: 2057545.18 East: 6397441.16
Line Course: N 14-12-55 E Length: 233.36
North: 2057711.27 East: 6397500.19
Line Course: N 89-19-47 E Length: 1062.37
North: 2057764.40 East: 6398562.49
Line Course: S 00-43-35 W Length: 52.35
North: 2057836.75 East: 6398561.82
Line Course: N 87-29-42 W Length: 0.00
North: 2057036.75 East: 6398561.82
Line Course: N 59-21-16 E Length: 3813.99
North: 2057879.72 East: 6402375.57
Line Course: N 88-38-36 W Length: 5010.03
North: 2057998.29 East: 639/366.94
Line Course: S 00-43-51 E Length: 2639.81
North: 2055358.69 East: 6397400.60

Perimeter: 16279.81 Area: 686,488 sq.ft. 15.76 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.02
Course: N 42-57-38 E
Error North: 0.013
East: 0.012
Precision 1: 013,990.50
Parcel name: APN 007-024-003 Area

North: 2058030.08        East: 6400011.45
Line Course: S 00-44-17 E Length: 175.98
    North: 2057853.11        East: 6400013.73
Line Course: S 89-21-16 W Length: 1322.02
    North: 2057838.22        East: 6398691.80
Line Course: N 00-43-35 W Length: 175.98
    North: 2058014.18        East: 6398699.56
Line Course: N 89-18-40 E Length: 1321.98
    North: 2058030.08        East: 6400011.45

Perimeter: 2996.96    Area: 233,304 sq.ft. 5.36 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.00    Course: S 07-02-01 W
Error North: -0.000    East: -0.003
Precision 1: 2,996,960,000.00
EXHIBIT “A”
Temporary Construction Easement

SR132 Phase 1 Construction Project
Nita Marie Wagner Living Trust to City of Modesto
APN: 007-024-003

Legal description:

ALL that certain real property, being a portion of Parcel No. 1, as described in Grant Deed to Nita Marie Wagner, as Trustee of the Nita Marie Wagner Living Trust, filed for record November 15, 1979 in Volume 3261 of Official Records, at Page 282, Instrument No. 79-32644, Stanislaus County Records, and situate in the South half of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, and being more particularly described as follows:

A strip of land 20.00 feet wide, coincident with and lying South of course (12) of the following described line:

COMMENCING at a concrete monument with a 3" square brass plate in a monument well at the southwest corner of said Section 26, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2" iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, as shown on said Record of Survey, bears North 00°43’51” West 2639.81 feet; thence North 87°39’48” East 714.96 feet to the easterly terminus of the line labeled “1)N. 86°20’23”W., 130.217 meters” as shown in that certain Grant Deed to the State of California, filed for record May 16, 2001 as Document no. 2001-0051238, Stanislaus County Records, said terminus lying within the right-of-way of Maze Boulevard (State Highway Route 132), and being the TRUE POINT OF BEGINNING;

thence (1), along said line labeled “1)N. 86°20’23”W., 130.217 meters” North 86°20’32” West 427.22 feet;

thence (2), leaving said line labeled “1)N. 86°20’23”W., 130.217 meters” and proceeding North 00°00’00” East 0.03 feet;

thence (3), North 87°58’17” West 160.44 feet;

thence (4), North 52°54’59” West 83.49 feet to a point which is 62.50 feet distant at right angles from the West line of said southwest quarter of Section 26;

thence (5), thence parallel with said West line North 00°43’51” West 1608.21 feet;

thence (6), North 89°14’21” East 7.05 feet;
thence (7), North 00°43'24" West 75.00 feet, more or less, to a point on the South line of the lands described in Grant Deed to David A. Faria and Gail M. Faria, husband and wife, as community property, filed for record January 4, 1995 as Instrument No. 95-0000350, Stanislaus County Records; thence (8), leaving last said South line and proceeding North 00°39'49" West 390.90 feet; thence (9), North 14°12'55" East 233.96 feet; thence (10), North 89°19'47" East 1062.37 feet; thence (11), North 00°43'35" West 52.35 feet to the westerly extension of the future southerly right-of-way line of State Highway Route 132 labeled as "N89°21'00"E 2362.15", as said right-of-way line is shown on sheet 21 of State Highway map STA-132P PM 12.00; thence (12), along said proposed southerly right-of-way line and said westerly extension North 89°21'16" East 3813.99 feet to the easterly terminus of the line labeled "N89°21'00"E 2362.15" as shown on said Sheet 21 and Sheet 22 of State Highway Map STA-132P PM 12.36, and the terminal point of this description, said terminal point bears South 88°38'38" East 5010.03 feet from aforementioned West 1/4 corner of Section 26. Containing (26,441 square feet Grid), 26,445 square feet [0.61 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.999866447).

All as shown on EXHIBIT ‘B’ attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020. Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.
EXHIBIT 'B'
TEMPORARY CONSTRUCTION EASEMENT

KANSAS AVENUE

MAZE BOULEVARD (SR 132)

EXISTING STATE RIGHT-OF-WAY LINE
1738-O.R.-653

20'

1/4 SECTION LINE

M.I.D. RIGHT-OF-WAY
EASEMENT
525-O.R.-182

52,917 SQ.FT.
1.21 ACRES

100' M.I.D. EASEMENT
TRACT 140-ET
DOC.#2010-0088387

M.I.D. PUBLIC UTILITIES
EASEMENT
DOC.#2010-0092557

APN 007-024-004

SE COR. SEC. 26

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SOUTHEAST QUARTER OF
SECTION 26, TOWNSHIP 3 SOUTH, RANGE 8 EAST, M.D.M.

STANISLAUS COUNTY
CALIFORNIA

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EXHIBIT "A"
Temporary Construction Easement

SR132 Phase 1 Construction Project
Nita Marie Wagner Living Trust et al to City of Modesto
APN: 007-024-004

Legal description:

ALL that certain real property, being a portion of Parcel No. 6, as described in Grant Deed to Nita Marie Wagner, as Trustee of the Nita Marie Wagner Living Trust, filed for record November 15, 1979 in Volume 3261 of Official Records, at Page 282, Instrument No. 79-32644, Stanislaus County Records, and situate in the southeast 1/4 of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, and being more particularly described as follows:

The North 20 feet of said Wagner land.

Containing (52,910 square feet Grid), 52,917 square feet [1.21 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946

3/16/18
EXHIBIT 'B'
TEMPORARY CONSTRUCTION EASEMENT

KANSAS AVENUE

EXISTING STATE RIGHT-OF-WAY LINE
1738-O.R.-653

20'
1/4 SECTION LINE

52,917 SQ.FT.
1.21 ACRES

M.I.D. RIGHT-OF-WAY
EASEMENT
525-O.R.-182

APN 007-024-004

1/4 SECTION LINE

M.I.D. PUBLIC UTILITIES
EASEMENT
DOC.#2010-0092557

APN 007-038-017

MAZE BOULEVARD (SR 132)

SECTION LINE

SECTION LINE

SE COR. SEC. 26

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SOUTHEAST QUARTER OF
SECTION 26, TOWNSHIP 3 SOUTH, RANGE 8 EAST, M.D.M.
STANISLAUS COUNTY
CALIFORNIA
EXHIBIT "A"
Temporary Construction Easement

SR132 Phase 1 Construction Project
Hans J. Wagner III 2015 Trust to City of Modesto
APN: 007-037-010

Legal description:

ALL that certain real property, being a portion of Parcel "A", as shown on that certain map, filed for record in Book 52 of Parcel Maps, at Page 48, Stanislaus County Records, and as described in Grant Deed to Hans J. Wagner III, Trustee of the Hans J. Wagner III 2015 Trust dated June 10, 2015, filed for record December 17, 2015 as Document No. 2015-0097363, Stanislaus County Records, situate in the southwest 1/4 of Section 25, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, and being more particularly described as follows:

The North 20 feet of said Parcel "A".

Containing (17,670 square feet Grid), 17,672 square feet [0.41 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946

3/19/18
EXHIBIT 'B'
TEMPORARY CONSTRUCTION EASEMENT

1/4 SECTION LINE

KANSAS AVENUE

EXISTING STATE RIGHT-OF-WAY PER 1862-O.R.-255

17,672 SQ.FT.
0.41 ACRES

100' M.I.D. P.U.E.
TRACT No. 141-ET-1
DOC.#2007-0050481

10' IRRIGATION
EASEMENT
PER 52-PM-48

20'

SECTION LINE

APN 007-037-010

30' IRREV. OFFER OF DEDICATION
FOR RIGHT-OF-WAY
PER 52-PM-48

30' ACCESS & P.U.E.
PER 52-PM-48

APN 007-038-017

2.5' COMMON USE
AGREEMENT
DOC.#2009-0046859

2.5' CITY OF MODESTO
SEWER EASEMENT.
3444-O.R.-832

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF PARCEL "A" PER 52-PM-48, SW
1/4 SEC. 25, TOWNSHIP 3 SOUTH, RANGE 8 EAST, M.D.M.
STANISLAUS COUNTY
CALIFORNIA
MODESTO CITY COUNCIL
RESOLUTION NO. 2018-373


WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue;

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto;

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project;

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project;

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2;
WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement");

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article I, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement;

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, et seq.), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760;

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests in fee and a 24-month temporary construction easement, from property located at 216 Linden St., Modesto, CA 95351 (APN 101-004-063), as more particularly described and depicted in Exhibit A attached hereto and made a part hereof by this reference, for the construction of the Project;
WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary;

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein.

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.
5. The City has complied with all conditions and statutory requirements, including those prescribed by CEQA and NEPA, that are necessary for approval and adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.
BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true and correct, and all the findings and determinations made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

**AYES:** Councilmembers: Ah You, Grewal, Kenoyer, Ridenour, Zoslocki, Mayor Brandvold

**NOES:** Councilmembers: Madrigal

**ABSENT:** Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT “A”

RIGHT-OF-WAY

SR132 Phase 1 Construction Project
Crystal D. Matthews to City of Modesto
APN: 101-004-063

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to Crystal D. Matthews, a single woman, filed for record on March 25, 2002 as Document No. 2002-0038359, Stanislaus County Records, and situate in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying northeasterly of the following described line:

COMMENCING at a 6” x 6” concrete monument with a 5” square brass plate in a monument well at the southwest corner of said Section 29, from which a 2” iron pipe, no tag, at the West 1/4 corner of said Section 29 bears North 00°15’58” West 2646.66 feet; thence North 10°54’07” West 1714.22 feet to a point on the southwest right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled “N. 52°22’45” W. 452.41””, as shown on State Highway Map Route 99, Post Mile 16.7, sheet 17 of 23 sheets, on file at the Surveyor’s Office of the County of Stanislaus as file No. B-9A-PS-32, and the TRUE POINT OF BEGINNING;

thence (1), along the southwest right-of-way line of said State Highway, South 52°04’22” East 499.84 feet;

thence (2), leaving said southwesterly right-of-way line and proceeding South 51°25’59” East 416.89 feet to the beginning of a curve concave to the southwest having a radius of 2925.00 feet;

thence (3), Southeasterly 721.97 feet along the arc of said curve through a central angle of 14°08’32” to a point on said southwest right-of-way line;

thence (4), along said, non-tangent, southwest right-of-way line South 00°33’18” East 19.66 feet to the South terminus of the line labeled “24.17” of said State Highway Map, and the terminal point of this description, said terminal point bears North 57°07’08” East 1071.36 feet from aforementioned southwest corner of Section 29.

Containing (159 square feet Grid), 159 square feet [0.004 acres] Ground, more or less.
This conveyance is made for the purpose of a freeway and the grantor hereby relinquishes to the grantee any and all abutter's rights including access rights, appurtenant to grantors' remaining property, in and to said freeway.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946

Rien Groenewoud, P.L.S. 6946

2/8/18
Parcel name: ROW at Laurel LEGAL

North: 2055407.84  East: 6413460.96
Line  Course: N 10-54-07 W  Length: 1714.22
North: 2057091.12  East: 6413136.75
Line  Course: S 52-04-22 W  Length: 499.84
North: 2056783.89  East: 6413531.02
Line  Course: S 51-25-59 E  Length: 416.89
North: 2056523.99  East: 6413856.98
Curv  Length: 721.97  Radius: 2925.00
Delta: 14-08-32  Tangent: 362.83
Chord: 720.13  Course: S 44-21-43 E
Course In: S 36-34-01 W  Course Out: N 52-42-33 E
RF North: 7054236.99  East: 6412033.45
End North: 2056009.13  East: 6414360.49
Line  Course: S 00-33-18 E  Length: 19.66
North: 2055992.47  East: 6414360.68
Line  Course: S 57-07-08 W  Length: 1071.36
North: 2055407.83  East: 6413460.96

Perimeter: 4443.92  Area: 917,929 sq.ft.  21.07 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.00  Course: S 25-11-02 W
Error North: -0.004  East: -0.002
Precision 1: 4,443,940,000.00
Parcel name: APN 101-004-003 Area

North: 2056340.74  East: 6414074.17
Line Course: S 46-47-16 E Length: 19.60
  North: 2056327.32  East: 6414088.46
Line Course: S 00-33-01 E Length: 8.93
  North: 2056318.39  East: 6414088.54
Line Course: N 45-40-50 W Length: 32.30
  North: 2056340.96  East: 6414065.43
Line Course: S 06-37-01 E Length: 8.74
  North: 2056340.74  East: 6414074.17

Perimeter: 69.97  Area: 155 sq.ft. 0.00 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01
  Course: N 10-16-35 W
  Error North: 0.006  East: -0.001

Precision 1: 6,957.00
EXHIBIT “A”
Temporary Construction Easement

SR132 Phase 1 Construction Project
Crystal D. Matthews to City of Modesto
APN: 101-004-063

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to Crystal D. Matthews, a single woman, filed for record on March 25, 2002 as Document No. 2002-0038359, Stanislaus County Records, and situate in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, more particularly described as follows:

A strip of land 5.00 feet wide, coincident with and lying southwesterly of the following described line:

COMMENCING at a 6” x 6” concrete monument with a 5” square brass plate in a monument well at the southwest corner of said Section 29, from which a 2” iron pipe, no tag, at the West 1/4 corner of said Section 29 bears North 00°15’58” West 2646.66 feet; thence North 10°54’07” West 1714.22 feet to a point on the southwest right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled “N. 52°22’45” W. 452.41”, as shown on State Highway Map Route 99, Post Mile 16.7, sheet 17 of 23 sheets, on file at the Surveyor’s Office of the County of Stanislaus as file No. B-9A-PS-32, and the TRUE POINT OF BEGINNING;

thence (1), along the southwest right-of-way line of said State Highway, South 52°04’22” East 499.84 feet;

thence (2), leaving said southwesterly right-of-way line and proceeding South 51°25’59” East 416.89 feet to the beginning of a curve concave to the southwest having a radius of 2925.00 feet;

thence (3), Southeasterly 721.97 feet along the arc of said curve through a central angle of 14°08’32” to a point on said southwest right-of-way line;

thence (4), along said, non-tangent, southwest right-of-way line South 00°33’18” East 19.66 feet to the South terminus of the line labeled “24.17” of said State Highway Map, and the terminal point of this description, said terminal point bears North 57°07’08” East 1071.36 feet from aforementioned southwest corner of Section 29.
Containing (188 square feet Grid), 188 square feet [0.004 acres] Ground, more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments “TRACY” (PID AA4255), “PATTERSON” (PID HS5412) and “TURLOCK” (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT “B” attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946
EXHIBIT 'B'
TEMPORARY CONSTRUCTION EASEMENT

EXIST. STATE RIGHT-OF-WAY LINE

STATE HIGHWAY No. 99

188 SQ.FT. 0.004 ACRES

EXIST. 20' P.U.E PER 34-M-6

EXIST. 10' P.U.E PER 34-M-6

LINDEN STREET

PROPOSED STATE RIGHT-OF-WAY LINE

EXHIBIT
WB

"TEMPORARY CONSTRUCTION EASEMENT

EXIST. STATE RIGHT-OF-WAY LINE

Q

a

80'

MADISON STREET

79.881

S.C.R. STANISLAUS COUNTY RECORDS

-M-

SUBDIVISION, BOOK & PAGE

P.U.E. PUBLIC UTILITY EASEMENT

APN ASSESSOR'S PARCEL NUMBER

NorthStar Engineering Group, Inc.

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF LOT 33 OF "ADOBE ABCODE SUBDIVISION", BK. 34 MAPS Pg. 6, S.C.R., SW 1/4 SEC. 29, T.3 S., R.9 E., M.D.M.

MODESTO STANISLAUS COUNTY CALIFORNIA

DRAWN:  DESIGNED: CHK

SHEET 02 of 02
Parcel name: ROW at Laurel LEGAL

North: 2055407.84  East: 6413460.96
Line Course: N 10-54-07 W  Length: 1714.22
North: 2057091.12  East: 6413136.75
Line Course: S 52-04-22 E  Length: 499.84
North: 2056703.89  East: 6413531.02
Line Course: S 51-25-59 E  Length: 416.89
North: 2056223.59  East: 6413656.98
Curve Length: 721.97
    Radius: 2925.00
    Tangent: 362.83
Chord: 720.13
Course In: S 38-34-01 W  Course Out: N 52-42-33 E
BP North: 2054236.99  East: 6412039.45
End North: 2056009.13  East: 6414360.49
Line Course: S 00-33-18 E  Length: 19.66
North: 2055989.47  East: 6414360.68
Line Course: S 57-07-08 W  Length: 1071.36
North: 2055407.83  East: 6413460.96

Perimeter: 4443.92  Area: 917,929 sq.ft.  21.07 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.00  Course: S 25-11-02 W
Error North: -0.004  East: -0.002
Precision 1: 4,443,940,000.00
Parcel name: APH 101-004-063 TCE

North: 2056341.13  East: 6414056.05
Line Course: S 08-37-01 E  Length: 7.39
North: 2056340.95  East: 6414054.43
Curv Length: 32.29  Radius: 2925.00
Delta: 0-37-57  Tangent: 16.15
Chord: 32.29  Course: S 45-40-50 E
Course In: N 44-00-00 W  Course Out: N 44-38-00 E
RP North: 2056235.99  East: 6417033.45
End North: 2056318.39  East: 6414088.54

Line Course: S 00-33-01 E  Length: 7.10
North: 2056311.29  East: 6414086.60
Curv Length: 42.71  Radius: 2920.00
Delta: 0-50-17  Tangent: 21.36
Chord: 42.71  Course: N 45-41-05 W
Course In: S 44-44-04 W  Course Out: N 43-53-47 E
RP North: 2054236.99  East: 6417033.45
End North: 2056341.13  East: 6414056.05

Perimeter: 89.51  Area: 188 sq.ft.  0.00 acres

Mapcheck Closure - (Uses listed courses, radix, and deltas)
Error Closure: 0.00  Course: N 82-01-00 W
Error North: 0.000  East: -0.001
Precision 1: 89,490,000.00
RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF REAL PROPERTY DIRECTING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR THE STATE ROUTE 132 FREEWAY/EXPRESSWAY PHASE 1 PROJECT RE: 301 N. WASHINGTON STREET, MODESTO, CA 95354 (APN 101-004-057), OWNER: F9 PROPERTIES LLC, WHICH ACQUIRED TITLE AS ANO, LLC, A NEW HAMPSHIRE LIMITED LIABILITY COMPANY

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2;
and

WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article 1, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, et seq.), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests in fee and a 24-month temporary construction easement from property located at 301 N. Washington Street, Modesto, CA 95354 (APN 101-004-057), as more particularly described and depicted in Exhibit A attached hereto and made a part hereof.
by this reference, for the construction of the Project; and

WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein,

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.

5. The City has complied with all conditions and statutory requirements,
including those prescribed by CEQA and NEPA, that are necessary for approval and adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true
and correct, and all the findings and determinations made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Madrigal

ABSENT: Councilmembers: None

ATTEST:  

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
EXHIBIT "A"
RIGHT-OF-WAY

SR132 Phase 1 Construction Project
ANO, LLC to City of Modesto
APN: 101-004-057

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to ANO, LLC, a New Hampshire Limited Liability Company, filed for record on January 12, 2011 as Document No. 2011-0002813, Stanislaus County Records, and situate in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying southerly of the following described line:

COMMENCING at a 2" iron pipe, no tag, at the West 1/4 corner of said Section 29, from which a 6" x 6" concrete monument with a 5" square brass plate in a monument well at the southwest corner of said Section 29 bears South 00°15'58" East 2646.66 feet; thence South 27°14'16" East 1799.31 feet to a point on the northeast right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled "N. 46°45'24" W. 358.18", as shown on State Highway Map Route 99, Post Mile 16.3, sheet 16 of 23 sheets, on file at the Surveyor's Office of the County of Stanislaus as file No. B-9A-PS-32, and the TRUE POINT OF BEGINNING;

thence (1), along said northeast right-of-way line, South 46°27'01" East 272.60 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 2784.13 feet, to which beginning a radial line bears South 39°38'17" West;

thence (2), leaving said northeasterly right-of-way line and proceeding southeasterly 163.34 feet along the arc of said curve through a central angle of 03°21'41" to a point lying within the right-of-way of Linden Street, and the terminal point of this description, said terminal point bears North 56°18'13" East 1367.29 feet from aforementioned southwest corner of Section 29.

Containing (504 square feet Grid), 504 square feet [0.01 acres] Ground, more or less.

This conveyance is made for the purpose of a freeway and the grantor hereby relinquishes to the grantee any and all abutter's rights including access rights, appurtenant to grantors' remaining property, in and to said freeway.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256),
"PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946

5/23/18
Parcel name: MLA-SR99-WAZEL

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<th>Line Course</th>
<th>Length</th>
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<td>S 46-27-01 E</td>
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<th>Chord</th>
<th>Radius</th>
<th>Tangent</th>
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<td>N 39-38-17 E</td>
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<td>End North</td>
<td>East</td>
</tr>
<tr>
<td>2056166.41</td>
<td>6414538.53</td>
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</table>

Perimeter: 6249.19 Area: 1,368,373 sq.ft. 31.34 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01
Exact Closure: 0.005
Precision 1: 624,920.00
Parcel name: AW 101-004-057 ROW

North: 2056177.00  East: 6414590.63
Line Course: N 56-19-31 W  Length: 65.74
North: 2056213.46  East: 6414525.92
Line Course: N 46-27-01 W  Length: 77.50
North: 2056266.85  East: 6414469.75
Curve Length: 145.60  Radius: 2784.13
Delta: 2-59-47  Tangent: 72.52
Course In: N 39-38-17 E  Course Out: S 36-30-30 W
RF North: 2056410.88  East: 6446245.85
End North: 2056176.94  East: 6414504.26
Line Course: N 88-57-45 W  Length: 3.63
North: 2056177.01  East: 6414580.63
Line Course: N 88-57-41 W  Length: 0.00
North: 2056177.01  East: 6414580.63

Diameter: 292.48  Area: 504 sq.ft. 0.01 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01  Course: N 62-48-35 W
Error North: 0.003  East: -0.005
Precision 1: 29,247.00
EXHIBIT “A”
TEMPORARY CONSTRUCTION EASEMENT

SR132 Phase 1 Construction Project
ANO, LLC to City of Modesto
APN: 101-004-057

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to ANO, LLC, a New Hampshire Limited Liability Company, filed for record on January 12, 2011 as Document No. 2011-0002813, Stanislaus County Records, and situate in the southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying southwesterly of course (2) of the following described line:

COMMENCING at a 2" iron pipe, no tag, at the West 1/4 corner of said Section 29, from which a 6" x 6" concrete monument with a 5" square brass plate in a monument well at the southwest corner of said Section 29 bears South 00°15'58" East 2646.66 feet; thence South 27°14'16" East 1799.31 feet to a point on the northeast right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled "N. 46°45'24" W. 358.18", as shown on State Highway Map Route 99, Post Mile 16.3, sheet 16 of 23 sheets, on file at the Surveyor’s Office of the County of Stanislaus as file No. B-9A-PS-32, and the TRUE POINT OF BEGINNING;

thence (1), along said northeast right-of-way line, South 46°27'01" East 187.72 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 2779.63 feet, to which beginning a radial line bears South 41°23'02" West;

thence (2), leaving said northeasterly right-of-way line and proceeding southeasterly 360.09 feet along the arc of said curve through a central angle of 07°25'21" to the terminal point of this description, said terminal point bears North 60°26'58" East 1415.66 feet from aforementioned southwest corner of Section 29.

EXCEPTING THEREFROM that certain real property, lying southwesterly of course (4) of the following described line:

COMMENCING at a 2" iron pipe, no tag, at the West 1/4 corner of said Section 29, from which a 6" x 6" concrete monument with a 5" square brass plate in a monument well at the southwest corner of said Section 29 bears South 00°15'58" East 2646.66 feet; thence South 27°14'16" East 1799.31 feet to a point on the northeast right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled "N. 46°45'24" W. 358.18", as shown on State Highway Map Route 99, Post Mile 16.3, sheet 16 of 23 sheets, on file at the
Surveyor's Office of the County of Stanislaus as file No. B-9A-PS-32, and the True Point Of Beginning;

thence (3), along said northeast right-of-way line, South 46°27'01" East 272.60 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 2784.13 feet, to which beginning a radial line bears South 39°36'17" West;

thence (4), leaving said northeasterly right-of-way line and proceeding southeasterly 163.34 feet along the arc of said curve through a central angle of 03°21'41" to a point lying within the right-of-way of Linden Street, and the terminal point of this description, said terminal point bears North 56°18'13" East 1367.29 feet from aforementioned southwest corner of Section 29.

Containing (840 square feet Grid), 840 square feet [0.02 acres] Ground, more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946

5/23/18
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

FD. 2" IRON PIPE, NO TAG
AT W. 1/4 COR. SEC. 29
POINT OF COMMENCEMENT

KANSAS Ave.

LAUREL

M.L. KING DRIVE 5001-5056 E

MAZE Blvd. (SR 132)

FD. 6" x 6" CONC. MON. W
5" SQ. BRASS PLATE IN MON.
WELL AT SW COR. SEC. 29

8TH STREET

TEMPORARY
CONSTRUCTION
EASEMENT

W. STREET

L' STREET

STREET

WASHINGTON ST.

M' STREET

99

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF BLOCK 429 OF THE CITY OF MODESTO PER
VOL. 15 OF MAPS, S.C.R., SW 1/4 OF SEC. 29,
T.3 S., R.9 E., M.D.M.

STANISLAUS COUNTY CALIFORNIA

North Star
Engineering Group, Inc.

COPYRIGHT © 2018, NORTHSTAR ENGINEERING GROUP, INC.
Parcel name: MLK-P-R91-HAZE

North: 2055407.84  East: 6413400.96
Line Course: N 00-15-58 W  Length: 2646.66
   North: 2058054.47  East: 6413448.67
Line Course: S 27-14-16 E  Length: 1799.31
   North: 2056454.69  East: 6414272.18
Line Course: S 46-27-01 E  Length: 272.60
   North: 2056266.86  East: 641469.76
Curve  Length: 163.34  Radius: 2784.13
   Delta: 3-21-41  Tangent: 81.69
   Chord: 163.32  Course: S 52-02-33 E
Course In: N 39-38-17 E  Course Out: S 36-16-36 W
RP North: 2056410.89  East: 6416245.05
End North: 2056166.41  East: 6414590.53
Line Course: S 56-19-13 W  Length: 1367.29
   North: 2055407.85  East: 6413460.95

Perimeter: 6249.19  Area: 1,366,373 sq.ft.  31.74 acres

Mapcheck Closure = (Uses listed courses, radii, and deltas)
Error Closure: 0.01
Error North: 0.000
Precision 1: 624,900.00
Parcel name: MLK-SR95-MAZ62

North: 7058054.47  East: 6413448.66
Line Course: S 27-14-16 E Length: 1782.31
North: 7056154.67  East: 6414372.18
Line Course: S 46-27-01 E Length: 187.72
North: 7056328.34  East: 6414408.24
Curve Length: 360.09  Radius: 2779.63
Delta: 7-25-21  Tangent: 180.30
Chord: 359.84  Course: S 52-13-39 E
Course In: N 51-73-02 E  Course Out: S 33-57-41 W
RP North: 2058410.88  East: 6416245.85
End North: 2056105.42  East: 6414693.06
Line Course: S 60-28-10 W Length: 1415.86
North: 2055407.85  East: 6413460.96
Line Course: N 00-15-38 W Length: 2646.66
North: 2058054.48  East: 6413448.67
Perimeter: 6409.64  Area: 1,437,029 sq.ft. 32.99 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01  Course: S 25-26-45 E
Error North: 0.012  East: 0.006
Precision 1: 640,964.00
Parcel name: APN 101-004-057 TCE

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<td>North: 2056176.94</td>
<td>East: 6414984.26</td>
</tr>
<tr>
<td>Curve Length: 145.60</td>
<td>Radii: 2784.13</td>
</tr>
<tr>
<td>Delta: 2-59-47</td>
<td>Tangent: 72.87</td>
</tr>
<tr>
<td>Chord: 145.59</td>
<td>Course: N 51-51-36 W</td>
</tr>
<tr>
<td>Course In: N 36-38-30 E</td>
<td>Course Out: S 39-38-17 W</td>
</tr>
<tr>
<td>RP North: 2058110.83</td>
<td>East: 6416245.03</td>
</tr>
<tr>
<td>End North: 2053266.85</td>
<td>East: 641469.76</td>
</tr>
<tr>
<td>Line Course: N 46-27-01 W</td>
<td>Length: 77.59</td>
</tr>
<tr>
<td>North: 2056320.31</td>
<td>East: 6414413.57</td>
</tr>
</tbody>
</table>

Perimeter: 460.12 Area: 840 sq.ft. 0.02 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.01 Course: S 49-31-51 E
Error North: -0.005 East: 0.006
Precision 1: 46,011.00
MODESTO CITY COUNCIL
RESOLUTION NO. 2018-375

RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF REAL PROPERTY DIRECTING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR THE STATE ROUTE 132 FREEWAY/EXPRESSWAY PHASE 1 PROJECT RE: 611 NORTH FRANKLIN, MODESTO, CA 95351 (APN 029-015-008), OWNER: MELTON & OLMSTED ENTERPRISES, INC., A CALIFORNIA CORPORATION

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2; and
WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article 1, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, et seq.), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article 1, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests in fee and a 24-month temporary construction easement from property located at 611 North Franklin, Modesto, CA 95351 (APN 029-015-008), as more particularly described and depicted in Exhibit A attached hereto and made a part hereof by this reference, for the construction of the Project; and
WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein,

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The property described and depicted in Exhibit A hereto is necessary for the Project.

4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.

5. The City has complied with all conditions and statutory requirements, including those prescribed by CEQA and NEPA, that are necessary for approval and
adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true and correct, and all the findings and determinations made by the City Council pursuant to
this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Madrigal

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
EXHIBIT “A”

RIGHT-OF-WAY

SR132 Phase 1 Construction Project  
Melton & Olmsted Enterprises, Inc. to City of Modesto  
APN: 029-015-008

Legal description:

ALL that certain real property, being a portion of the lands described in Individual Grant Deed to Melton & Olmsted Enterprises, Inc., a California corporation, filed for record on November 17, 1986 as Instrument No. 86-035639, Stanislaus County Records, and situate in the southeast quarter of Section 30, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying southerly of course (2) thru course (4) of the following described line:

COMMENCING at a 2′ iron pipe, no tag, at the East 1/4 corner of said Section 30, from which a 6′ x 6′ concrete monument with a 5′ square brass plate in a monument well at the southeast corner of said Section 30 bears South 00°15′58″ East 2646.66 feet; thence South 48°08′14″ West 505.43 feet to a point on the northeast right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled “N. 63°42′20″ W. 107.99″”, as shown on State Highway Map Route 99, Post Mile 16.7, sheet 17 of 23 sheets, on file at the Surveyor’s Office of the County of Stanislaus as file No. B-9A-PS-32, and the TRUE POINT OF BEGINNING;

thence (1), along said northeast right-of-way line, South 63°23′55″ East 17.86 feet;

thence (2), leaving said northeast right-of-way line and proceeding South 90°00′00″ East 73.61 feet;

thence (3), easterly 219.78 feet along the arc of a non-tangent curve concave to the North having a radius of 750.00 feet, to which beginning a radial line bears South 03°55′59″ West, through a central angle of 16°47′23″;

thence (4), along a non-tangent line North 61°32′04″ East 56.98 feet to a point lying within the right-of-way of Franklin Street, and the terminal point of this description, said terminal point bears South 03°30′07″ West 301.87 feet from aforementioned East 1/4 corner of Section 30.

This conveyance is made for the purpose of a freeway and the grantor hereby relinquishes to the grantee any and all abutter’s rights including access rights, appurtenant to grantors’ remaining property, in and to said freeway.
TOGETHER WITH the release and relinquishment of all abutter's rights of access over and across the following described line:

Beginning at the intersection of the above-described course (4) with the easterly line of said Melton & Olmsted Enterprises real property; thence northerly along said easterly line 100.00 feet to the point of termination.

Containing (33,953 square feet Grid), 33,958 square feet [0.78 acres] Ground, more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.999986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946
EXHIBIT “A”
Temporary Construction Easement

SR132 Phase 1 Construction Project
Melton & Olmsted Enterprises, Inc. to City of Modesto
APN: 029-015-008

Legal description:

ALL that certain real property, being a portion of the lands described in Individual Grant Deed to Melton & Olmsted Enterprises, Inc., a California corporation, filed for record on November 17, 1986 as Instrument No. 86-035639, Stanislaus County Records, and situate in the southeast quarter of Section 30, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, being more particularly described as follows:

COMMENCING at a 2” iron pipe, no tag, at the East 1/4 corner of said Section 30, from which a 6” x 6” concrete monument with a 5” square brass plate in a monument well at the southeast corner of said Section 30 bears South 00°15’58” East 2646.66 feet; thence South 48°08’14” West 505.43 feet to a point on the northeast right-of-way line of State Highway Route 99, said point being the northwest terminus of the line labeled "N. 63°42’20” W. 107.99’", as shown on State Highway Map Route 99, Post Mile 16.7, sheet 17 of 23 sheets, on file at the Surveyor’s Office of the County of Stanislaus as file No. B-9A-PS-32; thence along said line labeled "N. 63°42’20” W. 107.99’" South 63°23’55” East 13.11 feet to its intersection with the West line of said Melton & Olmsted land, and the TRUE POINT OF BEGINNING;

thence (1), along said West line North 00°15’58” West 42.20 feet;

thence (2), leaving said West line and proceeding South 90°00’00” East 194.33 feet;

thence (3), South 89°10’56” East 125.47 feet;

thence (4), North 00°50’56” East 84.25 feet;

thence (5), North 00°30’00” East 61.60 feet;

thence (6), South 90°00’00” East 14.58 feet, more or less, to the East line of said Melton & Olmsted land, said East line being also the West right-of-way line of Franklin Street (variable width);
thence (7), along said East line, parallel with and 30.00 feet distant at right angles from the East line of said Section 30, South 00°15′58″ East 149.69 feet;

thence (8), leaving said East line and proceeding South 61°32′04″ West 45.43 feet;

thence (9), westerly 219.78 feet along the arc of a non-tangent curve concave to the North having a radius of 750.00 feet, to which beginning a radial line bears South 12°51′24″ East, through a central angle of 16°47′23″;

thence (10), along a non-tangent line North 90°00′00″ West 73.61 feet to a point on aforementioned line labeled "N. 63°42′20″ W. 107.99 ″;

thence (11), along said line labeled "N. 63°42′20″ W. 107.99 ″ North 63°23′55″ West 4.75 feet to the Point of Beginning.

Containing (15,189 square feet Grid), 15,191 square feet [0.35 acres] Ground, more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946
MODESTO CITY COUNCIL
RESOLUTION NO. 2018-376

RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF REAL PROPERTY DIRECTING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR THE STATE ROUTE 132 FREEWAY/EXPRESSWAY PHASE 1 PROJECT RE: 350 DAKOTA AVENUE, MODESTO, CA 95358 (APN 007-024-006 & 007-024-005), OWNER: SALIDA HULLING ASSOCIATION, A NON-PROFIT COOPERATIVE ASSOCIATION

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project ("Project") proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, the Project, will improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR-132)/Maze Boulevard, and improve traffic operations by creating a new alignment connecting SR-132 with the City of Modesto; and

WHEREAS, on October 10, 2017, Council approved a Measure L Cooperative Agreement with StanCOG ("StanCOG Cooperative Agreement") for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project; and

WHEREAS, on October 24, 2017, Council approved a Joint Powers Agreement with Stanislaus County ("City/County JPA") to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of the Project; and

WHEREAS, on March 2, 2018, the California Department of Transportation ("Caltrans") approved the Environmental Document and selected Project Alternative 2; and

09/04/2018/ced/vdion/item 15
WHEREAS, on August 8, 2018, Council approved a Cooperative Agreement between the City of Modesto and Caltrans ("City/Caltrans Cooperative Agreement"); and

WHEREAS, the City is vested by law with the authority to acquire real property and exercise the power of eminent domain to acquire real property under the provisions and authority of and for the purposes and uses authorized by Article 1, Section 19 of the Constitution of the State of California, Government Code sections 37350.5, 37353, 39792, 40401, 40404, Streets & Highways Code sections 104, 113, 114, 116, 130, 1810, 10102, and by California Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610, and pursuant to the City/Caltrans Cooperative Agreement; and

WHEREAS, pursuant to Code of Civil Procedure section 1240.140, the Joint Exercise of Powers Act (Government Code sections 6500, *et seq.*), and City/County JPA, Stanislaus County delegated to the City its authority to acquire and condemn property for the Project pursuant to Article I, Section 19 of the Constitution of the State of California, Government Code section 25350.5, Streets and Highways Code sections 104, 116, 130, 760 and 943, Code of Civil Procedure sections 1240.110, 1240.120, 1240.150, 1240.410, 1240.510, and 1240.610, and Streets & Highways Code sections 104, 116, 130 and 760; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests in fee and a 24-month temporary construction easement from property located at 350 Dakota Avenue, Modesto, CA 95358 (APN 007-024-006 & 007-024-005), as more particularly described and depicted in Exhibit A attached hereto and made a part hereof by this reference, for the construction of the Project; and
WHEREAS, the City and Caltrans have investigated and examined alternatives to the Project and the acquisition of the Property, and concluded that both the Project and the acquisition of the Property for the Project are necessary; and

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") have been satisfied for the Project; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to the owner(s) of the property herein, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto at the time and place set forth in said notice, regarding the matters specified therein,

NOW, THEREFORE, IT IS FOUND AND DETERMINED as follows:

1. The public interest and necessity require the Project.
2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The property described and depicted in Exhibit A hereto is necessary for the Project.
4. The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, has been made to the owner or owners of record, which offer and statement were in a format and contained the information required by Government Code Section 7267.2.
5. The City has complied with all conditions and statutory requirements, including those prescribed by CEQA and NEPA, that are necessary for approval and
adoption of the Project.

6. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City.

7. Insofar as any portion of the property has heretofore been appropriated for public use, the proposed use set forth herein will not unreasonably interfere with or impair the continuation of the public use as it exists or may reasonably be expected to exist in the future, and is therefore a compatible public use pursuant to Code of Civil Procedure Section 1240.510, or, as applicable, constitutes a more necessary public use to which the property is appropriated pursuant to Code of Civil Procedure Section 1240.610.

8. The City Attorney and/or his designee, is hereby authorized and empowered to acquire in the name of the City of Modesto by condemnation the property described and depicted in Exhibit A hereto; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as is necessary for such acquisition and to make such action as may be deemed advisable or necessary in connection therewith; and to deposit the probable amount of just compensation, based on an approved appraisal.

9. An order for prejudgment possession may be obtained in said condemnation proceeding and a warrant issued to the State Treasury Condemnation Fund, in the amount based on the approved appraisal, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

BE IT FURTHER RESOLVED, that the recitals contained hereinabove are true and correct, and all the findings and determinations made by the City Council pursuant to
this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES:    Councilmembers:    Ah You, Grewal, Kenoyer, Ridenour, Zoslocki, Mayor Brandvoid

NOES:    Councilmembers:    Madrigal

ABSENT:  Councilmembers:    None

ATTEST:  STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:      ADAM U. LINDGREN, City Attorney
EXHIBIT "A"

Right-of-Way

SR132 Phase 1 Construction Project
Salida Hulling Association to City of Modesto
APN: 007-024-006

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to Salida Hulling Association, a Non-Profit Cooperative Association, filed for record August 9, 2002 as Document No. 2002-0102435, Stanislaus County Records, and situate in the southwest 1/4 of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, lying southerly, southwesterly and westerly of courses (2) thru (7) of the following described line:

COMMENCING at a concrete monument with a 3" square brass plate in a monument well at the southwest corner of said Section 26, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2" iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, as shown on said Record of Survey, bears North 00°43'51" West 2639.81 feet; thence North 87°39'48" East 714.96 feet to the easterly terminus of the line labeled "1)N. 86°20'23"W., 130.217 meters" as shown in that certain Grant Deed to the State of California, filed for record May 16, 2001 as Document no. 2001-0051238, Stanislaus County Records, said terminus lying within the right-of-way of Maze Boulevard (State Highway Route 132), and being the TRUE POINT OF BEGINNING;

thence (1), along said line labeled "1)N. 86°20'23"W., 130.217 meters" North 86°20'32" West 427.22 feet;

thence (2), leaving said line labeled "1)N. 86°20'23"W., 130.217 meters" and proceeding North 00°00'00" East 0.03 feet;

thence (3), North 87°58'17" West 160.44 feet;

thence (4), North 52°54'59" West 83.49 feet to a point which is 62.50 feet distant at right angles from the West line of said southwest quarter of Section 26;

thence (5), thence parallel with said West line North 00°43'51" West 1608.21 feet;

thence (6), North 89°14'21" East 7.05 feet;

thence (7), North 00°43'24" West 75.00 feet, more or less, to a point on the North line of said Salida Hulling Association land;
thence (3), leaving last said North line and proceeding North 00°39'49" West 390.90 feet;

thence (9), North 14°12'55" East 233.96 feet;

thence (10), North 88°19'47" East 1062.37 feet;

thence (11), North 00°43'35" West 52.35 feet to the westerly extension of the future southerly right-of-way line of State Highway Route 132 labeled as "N89°21'00"E 2362.15", as said right-of-way line is shown on sheet 21 of State Highway map STA-132P PM 12.00;

thence (12), along said proposed southerly right-of-way line and said westerly extension North 89°21'16" East 3613.99 feet to the easterly terminus of the line labeled "N89°21'00"E 2362.15" as shown on said Sheet 21 and Sheet 22 of State Highway Map STA-132P PM 12.36, and the terminal point of this description, said terminal point bears South 88°38'36" East 5010.03 feet from aforementioned West 1/4 corner of Section 26.

Containing (15,600 square feet Grid), 15,602 square feet [0.36 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS6412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Rien Groenewoud, P.L.S. 6946
PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SW 1/4 OF SECTION 26, T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY

CALIFORNIA
EXHIBIT “A”
Temporary Construction Easement

SR132 Phase 1 Construction Project
Salida Hulling Association to City of Modesto
APN: 007-024-006

Legal description:

ALL that certain real property, being a portion of the lands described in Grant Deed to Salida Hulling Association, a Non-Profit Cooperative Association, filed for record August 9, 2002 as Document No. 2002-0102435, Stanislaus County Records, and situate in the southwest 1/4 of Section 26, Township 3 South, Range 8 East, Mount Diablo Meridian, County of Stanislaus, State of California, being a strip of land 2.00 feet wide, the southerly, southwesterly and westerly line of which is coincident with courses (1) thru (5) of the following described line:

COMMENCING at a concrete monument with a 3" square brass plate in a monument well at the southwest corner of said Section 26, as shown on that certain Record of Survey, filed for record in Book 31 of Surveys, at Page 22, Stanislaus County Records, from which a 2" iron pipe with brass cap in a monument well at the West 1/4 corner of said Section 26, as shown on said Record of Survey, bears North 00°43'51" West 2639.81 feet; thence North 87°39'48" East 714.96 feet to the easterly terminus of the line labeled "1)N. 86°20'23"W., 130.217 meters" as shown in that certain Grant Deed to the State of California, filed for record May 16, 2001 as Document no. 2001-0051238, Stanislaus County Records; thence along said line labeled "1)N. 86°20'23"W., 130.217 meters" North 86°20'32" West 427.22 feet; thence leaving last said line and proceeding North 00°00'00" East 0.03 feet to TRUE POINT OF BEGINNING;

thence (1), North 87°58'17" West 160.44 feet;

thence (2), North 52°54'59" West 83.49 feet to a point which is 62.50 feet distant at right angles from the West line of said southwest quarter of Section 26;

thence (3), thence parallel with said West line North 00°43'51" West 1608.21 feet;

thence (4), North 89°14'21" East 7.05 feet;

thence (5), North 00°43'24" West 75.00 feet, more or less, to a point on the North line of said Salida Hulling Association land;
thence (6), leaving last said North line and proceeding North 00°39’49" West 390.90 feet to the terminal point of this description, said terminal point bears South 09°29’50" East 459.39 feet from aforementioned West 1/4 corner of Section 26.

TOGETHER WITH the following described real property:

BEGINNING at a point which is 64.50 feet distant at right angles from the West line of said southwest quarter, and bears North 01°53’23" East 1410.67 feet from said southwest corner of Section 26;

thence (7), parallel with said West line, North 00°43’51" West 139.56 feet;

thence (8), leaving last said parallel line and proceeding North 89°16’36" East 6.56 feet to the beginning of a curve concave to the Northeast having a radius of 40.00 feet, to which beginning a radial line bears South 89°16’36" West;

thence (9), southeasterly 62.62 feet along the arc of said curve through a central angle of 89°42’10’’;

thence (10), North 89°34’26" East 9.92 feet;

thence (11), South 00°52’42" East 59.48 feet;

thence (12), South 89°07’18" West 13.93 feet;

thence (13), southwesterly 62.72 feet along the arc of a curve concave to the southeast having a radius of 40.00 feet, through a central angle of 89°50’15’’;

thence (14), along a non-tangent line South 89°16’09" West 2.60 feet to the Point of Beginning.

Containing (8,274 square feet Grid), 8,275 square feet [0.19 acres] Ground more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 3, NAD83 adjusted to the 2007.00 Epoch of NGS monuments "TRACY" (PID AA4256), "PATTERSON" (PID HS5412) and "TURLOCK" (PID AA4252). All distances and areas shown are grid. To convert to ground distances, divide grid distances by a combined factor of 0.999932235. To convert to ground areas, divide grid areas by the combined factor squared (0.99986447).

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.
Rights to the above described temporary easement shall cease and terminate on December 31, 2020.

Said rights may also be terminated prior to the above date by (GRANTEE) upon notice to GRANTOR.

Rien Groenewoud, P.L.S. 6946

6/2/18
EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

2" IRON PIPE w/ BRASS CAP
IN MON. WELL AT W.1/4 CORNER SECTION 26

1/4 SECTION LINE
KANSAS AVENUE

APN 081-031-013

PROPOSED STATE RIGHT-OF-WAY LINE

APN 007-024-001
M.I.D. PIPE LINE EASEMENT
DOC.#2008-0007447

APN 007-024-006
M.I.D. PIPE LINE EASEMENT
DOC.#2008-0007447

APN 007-024-003
M.I.D. ELECTRICAL EASEMENT
DOC.#2007-0056826

SEE SHEET 2

SEE SHEET 2

PLAT TO ACCOMPANY
LEGAL DESCRIPTION

BEING A PORTION OF THE SW 1/4 OF SECTION 26,
T. 3 S., R. 8 E., M.D.M.

STANISLAUS COUNTY
CALIFORNIA
RESOLUTION APPROVING AN INCREASE IN GOLF GREEN FEES AT THE CITY OF MODESTO GOLF COURSES BY $2/ROUND EFFECTIVE SEPTEMBER 20, 2018, WITH AN ANNUAL INFLATOR OF $1/ROUND EACH YEAR FOR THE NEXT FOUR YEARS, SUBJECT TO ANNUAL REVIEW, AND RESCINDING RESOLUTION NO. 2011-178

WHEREAS, the City owns, operates, and manages the Municipal Golf Course, Dryden Park Municipal Golf Course, and Creekside Municipal Golf Course (collectively “Municipal Golf Courses”), and

WHEREAS, on June 2, 2009, the City Council, by Resolution No. 2009-236, established new green fee rates at all three Municipal Golf Courses, and

WHEREAS, on May 24, 2011, the City Council, by Resolution No. 2011-178, granted the Director of the Parks, Recreation and Neighborhoods Department the authority to offer or approve golf specials at the Municipal Golf Courses, restated the 2009 green fee rates, and rescinded Resolution No. 2009-236, and

WHEREAS, in May 2016, the Mayor’s 100 Day Budget Review Committee recommended reducing or eliminating General Fund support to the golf fund and appoint two committee members to work with staff, and

WHEREAS, on September 5, 2017, at a City Council Workshop, staff was directed to conduct a workshop to receive public input and feedback on ways to reduce the General Fund subsidy to the golf fund, and

WHEREAS, in January 2018, two public workshops were conducted, and identified strong support for keeping the courses open, introducing new uses for the courses, increasing marketing and promotions, and increasing green fees, and
WHEREAS, in April 2018, the Golf Courses Advisory Committee presented the public workshop information to the City Council, and

WHEREAS, one of the Golf Courses Advisory Committee’s recommendations was to increase green fees by $1/round each year for the next five years pending annual review, and

WHEREAS, at the Workshop, the Council expressed interest in seeing higher green fees in the first year, and

WHEREAS, on June 25, 2018, the Finance Committee considered the Golf Advisory Committee’s recommendation of a $1 per round increase with annual $1 per round increases, subject to annual review, over the next four years as well as $2 and $3 per round increases, and

WHEREAS, the Finance Committee unanimously recommended a $2/round increase the first year with $1 per round increases, subject to annual review, over the next four years, and

WHEREAS, the first increase shall commence on September 5, 2018, with subsequent increases, pending review, commencing on July 1st of each year 2019, 2020, 2021, and 2022, and

WHEREAS, said matter was set for public hearing of the City Council to be held at 5:30 p.m. on September 4, 2018, in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed golf green fees, and
WHEREAS, the Council of the City of Modesto finds that the new increased fees for play need to established at the Municipal Golf Courses to help offset the rising cost of operating the golf courses.

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

1. RATES. The rates for players for Modesto Municipal Golf Course, Dryden Park Municipal Golf Course, and Creekside Municipal Golf Course are hereby established as set forth in Exhibit “A” attached hereto and effective September 20, 2018.

   Subsequent annual $1/round fee increases, pending review, shall be effective on July 1st 2019, 2020, 2021, and 2022.

2. DISCOUNTS & SPECIAL RATES. The Parks, Recreation and Neighborhoods Director, or designee, may provide discounts of the established green fees and/or offer green fee packages to encourage rounds of golf at all the municipal golf courses. Annual Pass, Special Play, Play Day, Tournament, School Team, Holiday, League, or other special or promotional rates shall be established by the Contractor, with the written approval of the Parks, Recreation and Neighborhoods Director, or his or her designee.

3. COMPLIMENTARY TICKETS. Complimentary tickets without fee may be issued by or under the direction of the Golf Course Professional to visiting professionals or others, for services rendered to the golf course. Free play must be approved by the Parks, Recreation and Neighborhoods Director or designee.
4. HOLIDAYS. "Holidays", as used herein, shall mean New Year's Day (January 1st), Martin Luther King's Birthday (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4th), Labor Day (the first Monday in September), Veteran's Day (November 11th), Thanksgiving Day (the fourth Thursday in November), and the day after Thanksgiving. When a holiday falls on a Sunday, the following Monday shall be observed as a holiday. When a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.

5. EFFECTIVE DATE. This resolution goes into effect and be in full force and operation on and after September 20, 2018.

BE IT FURTHER RESOLVED, Resolution No. 2011-178 is hereby rescinded effective September 20, 2018.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
# CITY OF MODESTO GOLF COURSES
## GREEN FEE SCHEDULES
### EFFECTIVE: September 20, 2018 - June 30, 2019

<table>
<thead>
<tr>
<th>DRYDEN PARK MUNICIPAL GOLF COURSE</th>
<th>CREEKSIDE MUNICIPAL GOLF COURSE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weekdays, 9-holes</strong></td>
<td><strong>Weekdays</strong></td>
</tr>
<tr>
<td>$18</td>
<td>$19</td>
</tr>
<tr>
<td><strong>Weekdays, 9-holes (seniors/juniors/disabled)</strong></td>
<td><strong>Weekdays, 9-holes (seniors/juniors/disabled)</strong></td>
</tr>
<tr>
<td>$16</td>
<td>$17</td>
</tr>
<tr>
<td><strong>Weekdays, 18-holes</strong></td>
<td><strong>Weekdays, 18-holes</strong></td>
</tr>
<tr>
<td>$74</td>
<td>$26</td>
</tr>
<tr>
<td><strong>Weekdays, 18-holes (seniors/juniors/disabled)</strong></td>
<td><strong>Weekdays, 18-holes (seniors/juniors/disabled)</strong></td>
</tr>
<tr>
<td>$21</td>
<td>$22</td>
</tr>
<tr>
<td><strong>Weekdays, Mid-day, 18-holes</strong></td>
<td><strong>Weekdays, Mid-day, 18-holes</strong></td>
</tr>
<tr>
<td>$20</td>
<td>$21</td>
</tr>
<tr>
<td><strong>Weekdays, Super-Twilight, 18-holes</strong></td>
<td><strong>Weekdays, Super-Twilight, 18-holes</strong></td>
</tr>
<tr>
<td>$14</td>
<td>$15</td>
</tr>
<tr>
<td><strong>Weekdays, Replay</strong></td>
<td><strong>Weekdays, Replay</strong></td>
</tr>
<tr>
<td>$13</td>
<td>$14</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, 9-holes</strong></td>
<td><strong>Weekends/Holidays, 9-holes</strong></td>
</tr>
<tr>
<td>$20</td>
<td>$22</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, 18-holes</strong></td>
<td><strong>Weekends/Holidays, 18-holes</strong></td>
</tr>
<tr>
<td>$30</td>
<td>$33</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, 18-holes (juniors, after noon)</strong></td>
<td><strong>Weekends/Holidays, 18-holes (juniors, after noon)</strong></td>
</tr>
<tr>
<td>$19</td>
<td>$21</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, Mid-day, 18-holes</strong></td>
<td><strong>Weekends/Holidays, Mid-day, 18-holes</strong></td>
</tr>
<tr>
<td>$23</td>
<td>$25</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, Super-Twilight, 18-holes</strong></td>
<td><strong>Weekends/Holidays, Super-Twilight, 18-holes</strong></td>
</tr>
<tr>
<td>$17</td>
<td>$19</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, Replay</strong></td>
<td><strong>Weekends/Holidays, Replay</strong></td>
</tr>
<tr>
<td>$16</td>
<td>$17</td>
</tr>
<tr>
<td><strong>Punch Card, 20/40 Rounds - 18/9-holes</strong></td>
<td><strong>Punch Card, 20/40 Rounds - 18/9-holes</strong></td>
</tr>
<tr>
<td>$380</td>
<td>$380</td>
</tr>
<tr>
<td><strong>Punch Card, 20/40 Rounds - 18/9-holes (seniors)</strong></td>
<td><strong>Punch Card, 20/40 Rounds - 18/9-holes (seniors)</strong></td>
</tr>
<tr>
<td>$340</td>
<td>$340</td>
</tr>
<tr>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes</strong></td>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes</strong></td>
</tr>
<tr>
<td>$210</td>
<td>$210</td>
</tr>
<tr>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes (seniors)</strong></td>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes (seniors)</strong></td>
</tr>
<tr>
<td>$190</td>
<td>$190</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MODESTO NINE-HOLE MUNICIPAL GOLF COURSE (MUNI)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weekdays, 9-holes</strong></td>
<td>$14</td>
</tr>
<tr>
<td><strong>Weekdays, 9-holes (seniors/disabled)</strong></td>
<td>$12</td>
</tr>
<tr>
<td><strong>Weekdays, 9 holes (juniors)</strong></td>
<td>$9</td>
</tr>
<tr>
<td><strong>Weekdays, Mid-day, 9-holes</strong></td>
<td>$12</td>
</tr>
<tr>
<td><strong>Weekdays, Mid-day, 9-holes (juniors)</strong></td>
<td>$9</td>
</tr>
<tr>
<td><strong>Weekdays, After 3PM, 9-holes</strong></td>
<td>$9</td>
</tr>
<tr>
<td><strong>Weekdays, 6-holes</strong></td>
<td>$9</td>
</tr>
<tr>
<td><strong>Weekdays, Replay</strong></td>
<td>$9</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, 9-holes</strong></td>
<td>$16</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, 9-holes (juniors)</strong></td>
<td>$10</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, After 1 PM, 9-holes</strong></td>
<td>$10</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, After 1 PM, 9-holes (juniors)</strong></td>
<td><strong>Weekends/Holidays, After 1 PM, 9-holes (juniors)</strong></td>
</tr>
<tr>
<td>$13</td>
<td>$10</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, After 3 PM, 9-holes</strong></td>
<td>$10</td>
</tr>
<tr>
<td><strong>Weekends, 6-holes</strong></td>
<td>$10</td>
</tr>
<tr>
<td><strong>Weekends/Holidays, Replay</strong></td>
<td>$10</td>
</tr>
<tr>
<td><strong>Punch Card, 20/40 Rounds - 18/9-holes</strong></td>
<td>$380</td>
</tr>
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<td><strong>Punch Card, 20/40 Rounds - 18/9-holes (seniors)</strong></td>
<td><strong>Punch Card, 20/40 Rounds - 18/9-holes (seniors)</strong></td>
</tr>
<tr>
<td>$340</td>
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</tr>
<tr>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes</strong></td>
<td>$210</td>
</tr>
<tr>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes (seniors)</strong></td>
<td><strong>Punch Card, 10/20 Rounds - 18/9-holes (seniors)</strong></td>
</tr>
<tr>
<td>$190</td>
<td>$190</td>
</tr>
</tbody>
</table>

**ANNUAL PASS (All Courses)**

$1,500 / Year

*(Restrictions Apply)*
RESOLUTION APPROVING AN AGREEMENT WITH PROTERRA INC., GREENVILLE, SC, IN AN AMOUNT NOT TO EXCEED $5,278,559 FOR FIVE PROTERRA BATTERY-ELECTRIC ZERO-EMISSION TRANSIT BUSES AND THE INSTALLATION AND DEPLOYMENT OF EIGHT PROTERRA DEPOT CHARGERS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in October 2015, the California Air Resources Board (CARB) released a notice to grantees to implement and administer Zero-Emission Truck and Bus Pilot Commercial Deployment Projects under the Air Quality Improvement Program (AQIP) and Low Carbon Transportation Greenhouse Gas Reduction Fund (GGRF) Investments, and

WHEREAS, on January 26, 2016, by Resolution 2016-23, Council approved joining a multi-agency partnership to apply for grant funds under the CARB’s Zero-Emission Bus Deployment Project, and

WHEREAS, on June 28, 2016, by Resolution 2016-278, Council accepted the grant award from the San Joaquin Valley Air Pollution Control District (SJVAPCD), and

WHEREAS, on June 26, 2018, by Resolution 2018-273, Council approved a grant agreement with the San Joaquin Valley Air Pollution Control District for $4,016,188, and

WHEREAS, the total cost for the agreement is $5,278,559, and

WHEREAS, funding for this project is available through existing transit grants with the San Joaquin Valley Air Pollution Control District, Federal Transit Administration, the Public Modernization, Improvement and Service Enhancement Account grant program (PTMISEA), and the Transportation Development Act (TDA), and
WHEREAS, the battery electric buses will provide a cleaner fuel for providing public transportation around Modesto.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves an agreement with Proterra Inc., Greenville, SC, in an amount not to exceed $5,278,559, for five Proterra battery-electric zero-emission transit buses and the installation and deployment of eight Proterra depot chargers.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2018-19 MULTI-YEAR BUDGET IN THE AMOUNT OF $2,751,908 TO FUND THE PURCHASE OF FIVE PROTERRA BATTERY-ELECTRIC TRANSIT BUS AND THE INSTALLATION AND DEPLOYMENT OF EIGHT PROTERRA DEPOT CHARGERS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, in October 2015, the California Air Resources Board (CARB) released a notice to grantees to implement and administer Zero-Emission Truck and Bus Pilot Commercial Deployment Projects under the Air Quality Improvement Program (AQIP) and Low Carbon Transportation Greenhouse Gas Reduction Fund (GGRF) Investments, and

WHEREAS, on January 26, 2016, by Resolution 2016-23, Council approved joining a multi-agency partnership to apply for grant funds under the CARB’s Zero-Emission Bus Deployment Project, and

WHEREAS, on June 28, 2016, by Resolution 2016-278, Council accepted the grant award from the San Joaquin Valley Air Pollution Control District (SJVAPCD), and

WHEREAS, on June 26, 2018, by Resolution 2018-273, Council approved a grant agreement with the San Joaquin Valley Air Pollution Control District for $4,016,188, and

WHEREAS, the total cost for the project is $7,388,908 and

WHEREAS, a multi-year project budget adjustment to project 101132 is necessary in the amount of $2,751,908 to fund the purchase and operations of the electric buses and charging stations, and

WHEREAS, funding for this project is available through existing transit grants with the San Joaquin Valley Air Pollution Control District, Federal Transit
Administration, the Public Modernization, Improvement and Service Enhancement
Account grant program (PTMISEA), and the Transportation Development Act (TDA).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2018-19 Budget as shown in Exhibit A, attached hereto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
## Request for Budget Adjustment
### (Projects and Grants)

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Mario Caprio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone:</td>
<td>577-5240</td>
</tr>
<tr>
<td>Submitting Department:</td>
<td>PW</td>
</tr>
<tr>
<td>Council Action Date:</td>
<td></td>
</tr>
<tr>
<td>Resolution Number:</td>
<td></td>
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<tr>
<td>Date Submitted by Dept:</td>
<td>5/12/2019</td>
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</table>

**Project Name:** PW - Electric Bus Purchase FY19

**Project Fund:** 4510

**Fiscal Year being Adjusted:** FY19/20

### Revenues

<table>
<thead>
<tr>
<th>FY</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Account</th>
<th>Project</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Description of Account</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>TO</th>
</tr>
</thead>
</table>

### Expenses

<table>
<thead>
<tr>
<th>FY</th>
<th>Project</th>
<th>Task</th>
<th>Expenditure Type</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Project Organization</th>
</tr>
</thead>
</table>

| TO |

### Justification for Budget Adjustment

<table>
<thead>
<tr>
<th>FY</th>
<th>Project</th>
<th>Task</th>
<th>Expenditure Type</th>
<th>Current Budget</th>
<th>Increase/Decrease</th>
<th>Revised Budget</th>
<th>Project Organization</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Authorization</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

- **Administrative Services Officer (if needed)**
- **Deputy Director (if needed)**
- **Department Director or Authorized Designee**
- **Financial Analyst**
- **Finance Director**
- **City Manager**

To be Completed by Finance Staff

<table>
<thead>
<tr>
<th>Transfer Number:</th>
<th>Completed By:</th>
</tr>
</thead>
</table>
RESOLUTION APPROVING A LIST OF PROJECTS TO BE FUNDED WITH MEASURE L TAX PROCEEDS IN FISCAL YEAR 2018-2019, INCLUDING PROJECTS IN THE FISCAL YEAR 2018-2019 CAPITAL IMPROVEMENT PROGRAM, APPROVING THE BUDGET ADJUSTMENT FOR EACH PROJECT AND EARMARKING FUTURE MEASURE L FUNDS IN THE AMOUNT OF $1,658,925 FOR A FUTURE MEASURE L-ELIGIBLE J STREET PROJECT.

WHEREAS, in November, 2016, Stanislaus County voters approved a county-wide, 25-year, half-cent sales tax increase for transportation and pavement rehabilitation projects known as Measure L, and

WHEREAS, the City of Modesto’s estimated share of Measure L funds is approximately $8.9 Million, and

WHEREAS, on October 4, 2016, the City Council approved Ordinance No. 3656-C.S. adding Chapter 10 to Title 8 of the Modesto Municipal Code to establish a Citizens’ Transportation Sales Tax Commission (“Commission”). The Commission will consist of eleven members appointed by the City Council, and

WHEREAS, the Commission has reviewed and approved the list of proposed projects to be funded with Measure L funds, staff is seeking City Council approval of a list of proposed projects and the necessary budget adjustments, and

WHEREAS, the local Measure L funds that the City will receive are divided into three categories, and

WHEREAS, the City anticipates receiving $6.87 Million annually for the Local Streets and Roads category which is to be used exclusively for repair and maintenance of our City streets, and
WHEREAS, the City anticipates receiving $1.37 Million annually for the Traffic Management category which is to be used to upgrade intersections, widen roads, signalize intersections, install traffic calming devices, etc., and

WHEREAS, the City anticipates receiving $687,000 annually for the Bike and Pedestrian Improvement category which is to be used for local connectivity between communities, local schools, trails and recreation facilities, and

WHEREAS, on May 24, 2016, by Resolution 2016-220 the City Council approved a list of proposed projects to be funded upon the successful passage of Measure L within the first 5 years, which is shown in Exhibit A, attached hereto, and

WHEREAS, staff reviewed the list and is recommending a more specific and expanded list of projects, which is shown in Exhibit C, attached hereto, to be funded with Measure L funds in Fiscal Year 2018-2019, and

WHEREAS, the Fiscal Year 2018-2019 Capital Improvement Program Budget must be amended as shown in Exhibit B, attached hereto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the list of projects to be funded with Measure L tax proceeds in Fiscal Year 2018-2019, including the projects in the Fiscal Year 2018-2019 Capital Improvement Program shown in Exhibit C, attached hereto.

BE IT FURTHER RESOLVED that Council hereby approves the amendment of the Fiscal Year 2018-2019 Capital Improvement Program Budget as shown in Exhibit B in order to fund the various Capital Improvement Projects with Measure L proceeds.

BE IT FURTHER RESOLVED that Council hereby approves earmarking $1,658,925 of future Measure L funding for a future Measure L-eligible J Street Project.
BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
### StanCOG Expenditure Plan Project List

**Agency: City of Modesto**

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Location</th>
<th>Details</th>
<th>Cost</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pavement Rehabilitation</td>
<td>Carpenter Rd.</td>
<td>1.75 CL miles of Overlay, Mill/Fill or Reconstruction</td>
<td>$2.9 M</td>
<td>July 2017</td>
<td>November 2018</td>
</tr>
<tr>
<td>Pavement Maintenance and/or Rehabilitation</td>
<td>Various Residential and/or Collector Streets</td>
<td>100 lane miles of Slurry or 24 lane-miles of Rubber Cape Seal</td>
<td>$3.9 M</td>
<td>July 2017</td>
<td>November 2018</td>
</tr>
<tr>
<td>Pavement Rehabilitation</td>
<td>Claus Rd., La Loma Ave., Tully Rd.</td>
<td>3.5 CL miles of Overlay, Mill/Fill or Reconstruction</td>
<td>$3.4 M</td>
<td>July 2018</td>
<td>November 2019</td>
</tr>
<tr>
<td>Pavement Maintenance and/or Rehabilitation</td>
<td>Various Residential and/or Collector Streets</td>
<td>87 lane miles of Slurry or 15 lane-miles of Mill/Fill</td>
<td>$3.4 M</td>
<td>July 2018</td>
<td>November 2019</td>
</tr>
<tr>
<td>Pavement Rehabilitation</td>
<td>Oakdale Rd, Orangeburg Ave.</td>
<td>3.25 CL miles of Overlay, Mill/Fill or Reconstruction</td>
<td>$3.1M</td>
<td>July 2019</td>
<td>November 2020</td>
</tr>
<tr>
<td>Pavement Maintenance and/or Rehabilitation</td>
<td>Various Residential and/or Collector Streets</td>
<td>90 lane miles of Slurry or 21 lane-miles of Rubber Cape Seal or 14 lane-miles of Mill/Fill</td>
<td>$3.5M</td>
<td>July 2019</td>
<td>November 2020</td>
</tr>
<tr>
<td>Pavement Rehabilitation</td>
<td>Prescott Rd</td>
<td>1.7 CL miles of Overlay and Mill/Fill</td>
<td>$2.1M</td>
<td>July 2020</td>
<td>November 2021</td>
</tr>
<tr>
<td>Pavement Maintenance and/or Rehabilitation</td>
<td>Various Residential and/or Collector Streets</td>
<td>120 lane miles of Slurry or 29 lane-miles of Rubber Cape Seal or 19 lane-miles of Mill/Fill</td>
<td>$4.7M</td>
<td>July 2020</td>
<td>November 2021</td>
</tr>
<tr>
<td>Pavement Maintenance and/or Rehabilitation</td>
<td>Various Residential, Collector and Arterial Streets</td>
<td>175 lane miles of Slurry or 42 lane-miles of Rubber Cape Seal or 27 lane-miles of Mill/Fill or 9 lane-miles of Reconstruction or some combination thereof</td>
<td>$6.8M annually until 2041</td>
<td>Annually</td>
<td>Annually</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$171,868,971</strong></td>
<td></td>
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</tr>
</tbody>
</table>
### StanCOG Expenditure Plan Project List

**Agency:** City of Modesto

<table>
<thead>
<tr>
<th>Traffic Management (10%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project</strong></td>
</tr>
<tr>
<td>Traffic Management - Safety</td>
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<td>Traffic Management - Safety</td>
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<td>Traffic Management - Safety</td>
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<td>Traffic Management - Safety</td>
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<td>Traffic Management - Safety</td>
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<tr>
<td>Traffic Management - Safety and Congestion</td>
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<tr>
<td>Traffic Management - Safety and Congestion</td>
</tr>
<tr>
<td>Traffic Management - Safety and Congestion</td>
</tr>
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**TOTAL** \( \text{\$34,373,800} \)
<table>
<thead>
<tr>
<th>Bike/Pedestrian (5%)</th>
<th>Bike/Pedestrian (Non-motorized) Master Plan</th>
<th>Bike/Pedestrian (Non-motorized) Master Plan</th>
<th>July 2017</th>
<th>June 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bike/Pedestrian</td>
<td>MIC Class 1 Bike Path - Phase 3 Complete MJJC East and West cycle track to Virginia Corridor</td>
<td>Bike/Pedestrian (Non-motorized) Master Plan</td>
<td>July 2018</td>
<td>June 2019</td>
</tr>
<tr>
<td>Bike/Pedestrian</td>
<td>Dry Creek Trail Maintenance Ongoing trail maintenance</td>
<td>Bike/Pedestrian (Non-motorized) Master Plan</td>
<td>Ongoing</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Bike/Pedestrian</td>
<td>G St Bicycle Facility Improve from Paradise to Burney</td>
<td>Bike/Pedestrian (Non-motorized) Master Plan</td>
<td>July 2019</td>
<td>June 2020</td>
</tr>
<tr>
<td>Bike/Pedestrian</td>
<td>H St Bicycle Facility Improve from Paradise to 19th</td>
<td>Bike/Pedestrian (Non-motorized) Master Plan</td>
<td>July 2020</td>
<td>June 2021</td>
</tr>
<tr>
<td>Bike/Pedestrian</td>
<td>Virginia Corridor Trail Maintenance Ongoing trail maintenance</td>
<td>Bike/Pedestrian (Non-motorized) Master Plan</td>
<td>Ongoing</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Bike/Pedestrian</td>
<td>Projects to be determined following approval of the Bike/Pedestrian Master Plan</td>
<td>Bike/Pedestrian (Non-motorized) Master Plan</td>
<td>TBD</td>
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**TOTAL:** $17,186,897
### Exhibit B
Measure L funding request FY 18/19

<table>
<thead>
<tr>
<th>CIP #</th>
<th>Project Name</th>
<th>Task</th>
<th>Amount</th>
<th>From Measure L Cost Center</th>
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<tbody>
<tr>
<td>101118</td>
<td>Claus Road Pavement Rehabilitation</td>
<td>EDA</td>
<td>$125,000</td>
<td></td>
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<td>CA</td>
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<td>CON</td>
<td>$1,318,773</td>
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<td></td>
<td></td>
<td>Total</td>
<td>$1,443,773</td>
<td>(Local Streets &amp; Roads)</td>
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<tr>
<td>101119</td>
<td>Downtown Master Plan</td>
<td>EDA</td>
<td>$210,000</td>
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<td></td>
<td>CA</td>
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<td></td>
<td>CON</td>
<td>$210,000</td>
<td>(Local Streets &amp; Roads)</td>
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<td></td>
<td></td>
<td>Total</td>
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<td></td>
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<tr>
<td>101038</td>
<td>Portions of Wylie Dr., Floyd Ave., and Carver St. Improvements</td>
<td>EDA</td>
<td>$170,000</td>
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<td>CON</td>
<td>$1,700,000</td>
<td>(Local Streets &amp; Roads)</td>
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<td>$1,870,000</td>
<td>(Local Streets &amp; Roads)</td>
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<td>101120</td>
<td>Village One Slurry Seal</td>
<td>EDA</td>
<td>$135,000</td>
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<td>CA</td>
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<td>CON</td>
<td>$1,727,060</td>
<td>(Local Streets &amp; Roads)</td>
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<td>Total</td>
<td>$1,862,060</td>
<td>(Local Streets &amp; Roads)</td>
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<tr>
<td>101122</td>
<td>Installation of Rectangular Rapid Flashing Beacon</td>
<td>EDA</td>
<td>$10,000</td>
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<td>CON</td>
<td>$190,000</td>
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<td></td>
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<td>Total</td>
<td>$200,000</td>
<td>(Traffic Management)</td>
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<tr>
<td>101123</td>
<td>Fiber Drop into Traffic Signal Cabinet</td>
<td>EDA</td>
<td>$25,000</td>
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<td>CON</td>
<td>$535,000</td>
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<td></td>
<td></td>
<td>Total</td>
<td>$560,000</td>
<td>(Traffic Management)</td>
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<td>101124</td>
<td>Replace 35 Obsolete Traffic Signal Controllers</td>
<td>EDA</td>
<td>$178,250</td>
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<td>CON</td>
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<td></td>
<td></td>
<td>Total</td>
<td>$178,250</td>
<td>(Traffic Management)</td>
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<tr>
<td>101125</td>
<td>Traffic Signal Analysis Study System Wide</td>
<td>EDA</td>
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<td>CA</td>
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<td>Total</td>
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<td></td>
<td>Appr. Unit C</td>
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<td>Total</td>
<td>$250,000</td>
<td>(Traffic Management)</td>
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<tr>
<td>101040</td>
<td>Improve Traffic Flow and Safety @ Orville Wright Elementary School</td>
<td>EDA</td>
<td>$186,702</td>
<td></td>
</tr>
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<td>CA</td>
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<tr>
<td></td>
<td></td>
<td>CON</td>
<td>$186,702</td>
<td>(Traffic Management)</td>
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<td></td>
<td></td>
<td>Total</td>
<td>$373,404</td>
<td>(Traffic Management)</td>
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<tr>
<td>101126</td>
<td>Dry Creek Trail Maintenance</td>
<td>EDA</td>
<td>$593,667</td>
<td></td>
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<td></td>
<td></td>
<td>CA</td>
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<td></td>
<td>CON</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Total</td>
<td>$593,667</td>
<td>(Bike and Pedestrian)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$685,000</td>
<td>14627 (Bike and Pedestrian)</td>
</tr>
</tbody>
</table>

**Subtotal of request**

$5,215,833 14625 (Local Streets & Roads)

$1,374,952 14626 (Traffic Management)

$685,000 14627 (Bike and Pedestrian)

$7,275,785
### Local Streets & Roads (Annual Budget - $6,874,758/yr.)

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>Project</th>
<th>Design</th>
<th>Construction</th>
<th>Total Budget</th>
<th>City Dept.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pvmt. Rehab.</td>
<td>Claus Road Pavement Rehabilitation</td>
<td>$125,000</td>
<td>$1,318,773</td>
<td>$1,443,773</td>
<td>C&amp;EDD</td>
</tr>
<tr>
<td></td>
<td>Project Description: Pavement rehabilitation project starting approximately 600' north of Briggsmore Avenue and proceeding north to approximately 800' north of Sylvan Avenue. The length of the project is 1.57 miles. Anticipated project improvements include roadway resurfacing, new striping, ADA upgrades and vehicle detection cameras at Sylvan Avenue and Claus Road.</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Pvmt. Rehab.</td>
<td>Downtown Master Plan</td>
<td>$210,000</td>
<td>$210,000</td>
<td>$210,000</td>
<td>C&amp;EDD</td>
</tr>
<tr>
<td></td>
<td>Project Description: Prepare a Master Plan for the Downtown.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pvmt. Rehab.</td>
<td>Portions of Wylie Dr., Floyd Ave., and Carver Ave. Street Impv. (Collector Streets)</td>
<td>$1,700,000</td>
<td>$1,700,000</td>
<td>$1,700,000</td>
<td>C&amp;EDD</td>
</tr>
<tr>
<td></td>
<td>Project Description: Pavement Rehabilitation and ADA ramp upgrades to portions of Wylie Drive, Floyd Avenue and Carver Avenue.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pvmt. Rehab.</td>
<td>Village One Slurry Seal</td>
<td>$1,862,060</td>
<td></td>
<td></td>
<td>C&amp;EDD</td>
</tr>
<tr>
<td></td>
<td>Project Description: Slurry seal project on residential streets within the following boundary area of Sylvan Avenue, Roselle Avenue, Merle Avenue and Claus Road. Anticipated project improvements include 56 lane miles of Type 2 slurry seal, new striping and ADA upgrades at request locations.</td>
<td></td>
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</tr>
</tbody>
</table>

**Unallocated Funds** $1,658,925

**TOTAL:** $6,874,758
### Traffic Management (Annual Budget - $1,374,952/yr.)

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>Project Description</th>
<th>Design</th>
<th>Construction</th>
<th>Total Budget</th>
<th>City Dept.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Mgt. - Safety</td>
<td>Installation of Rectangular Rapid Flashing Beacon: Installation of two Rectangular Rapid Flashing Beacons at: Carver Road at Teresa Street, Emerald Avenue south of Maze Boulevard Mid-Block</td>
<td>$10,000</td>
<td>$190,000</td>
<td>$200,000</td>
<td>Public Works</td>
</tr>
<tr>
<td>Traffic Mgt. - Safety</td>
<td>Fiber Drop into Traffic Signal Cabinet: Cut and splice into existing fiber optic back bone bringing fiber optic cable into traffic signal cabinets along Briggsmore Avenue, Standiford/Sylvan Avenues, and Oakdale Road.</td>
<td>$25,000</td>
<td>$535,000</td>
<td>$560,000</td>
<td>Public Works</td>
</tr>
<tr>
<td>Traffic Mgt. - Safety</td>
<td>Replace 35 Obsolete Traffic Controllers: Order and install needed traffic controllers, cards to upgrade existing 2070s to 2070LX, and ethernet switches.</td>
<td>$178,250</td>
<td></td>
<td>$178,250</td>
<td>Public Works</td>
</tr>
<tr>
<td>Traffic Mgt. - Safety</td>
<td>Traffic Signal Analyst Study System Wide: Hire outside consultant to analyze the City of Modesto’s traffic signal operation and proposed modifications for future system wide.</td>
<td>$250,000</td>
<td></td>
<td>$250,000</td>
<td>Public Works</td>
</tr>
<tr>
<td>Traffic Mgt. - Safety</td>
<td>Improve Traffic Flow and Safety @ Orville Wright Elementary School: Improve pedestrian safety and traffic flow around Orville Wright Elementary School.</td>
<td></td>
<td></td>
<td>$186,702</td>
<td>C&amp;EDD</td>
</tr>
</tbody>
</table>

**TOTAL: $1,374,952**
### Bike/Pedestrian (Annual Budget - $687,000/yr.)

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>Project</th>
<th>Design</th>
<th>Construction</th>
<th>Total Budget</th>
<th>City Dept.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bike /Ped.</td>
<td>Dry Creek Trail Maintenance</td>
<td>$91,333</td>
<td>593,667</td>
<td>$685,000</td>
<td>C&amp;EDD</td>
</tr>
</tbody>
</table>

**Project Description:** Pavement rehabilitation project on Dry Creek Bike Path from La Loma Avenue to El Vista Avenue. The length of the project is 1.6 miles. Anticipated project improvements include bike path resurfacing, new striping, new signage, shoulder improvements and ADA upgrades.

**TOTAL:** $685,000
MODESTO CITY COUNCIL
RESOLUTION NO. 2018-381

RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH NOSSAMAN LLP OF LOS ANGELES, CALIFORNIA FOR EMINENT DOMAIN LEGAL SERVICES FOR STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY PHASE 1 PROJECT IN AN AMOUNT NOT TO EXCEED $2,000,000 FOR THE IDENTIFIED SCOPE OF SERVICES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project (Project) proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, on October 10, 2017, by Resolution 2017-403, Council approved a Measure L Cooperative Agreement with StanCOG (StanCOG Cooperative Agreement) for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project, through which StanCOG has agreed to reimburse the City up to $10 million for costs relating to the PS&E Phase of the Project; and

WHEREAS, on October 24, 2017, by Resolution 2017-424 Council approved a Joint Powers Agreement with Stanislaus County (County) to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of acquisition services in support of the construction of the Project; and

WHEREAS, on February 27, 2018, by Resolution 2018-85, Council authorized early acquisition of real property prior to Environmental Document approval, and delegated to Staff authority to acquire property up to certain specified amounts; and
WHEREAS, on June 12, 2018, by Resolution 2018-237, Council approved
increases in the amounts of delegated authority to acquire property for the Project; and

WHEREAS, Council has authorized a total of $11,935,081 for right of way
acquisitions, utilizing City of Modesto Capital Facilities Fees (CFF) funds, Federal
Demonstration Program (DEMO) grant funds, and Stanislaus County Public Facility Fees
(PFF) funds; and

WHEREAS, on March 2, 2018, the California Department of Transportation
(Caltrans) approved the Environmental Document and selected Project Alternative 2; and

WHEREAS, on August 8, 2018, by Resolution 2018-315, Council approved a
Cooperative Agreement between the City and Caltrans, which sets forth the roles and
responsibilities of the City and Caltrans with respect to the Project; and

WHEREAS, on July 27, 2018, staff solicited proposals from law firms for
Eminent Domain Legal Services for the State Route 132 West Freeway/Expressway
Phase 1 Project in accordance with state and federal requirements; and

WHEREAS, proposals were received, evaluated and ranked; and

WHEREAS, the City selected Nossaman LLP as the top ranked firm; and

WHEREAS, Nossaman LLP has agreed to a contract for eminent domain legal
services in an amount not to exceed $2,000,000 for the State Route 132 West
Freeway/Expressway Phase 1 Project; and

WHEREAS, the City Manager and Staff recommend approval of the contract for
eminent domain legal services for the State Route 132 West Freeway/Expressway Phase
1 Project.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Professional Services Agreement with Nossaman LLP for Eminent Domain Legal Services for the State Route 132 West Freeway/Expressway – Phase I Project in an amount not to exceed $2,000,000, as provided in Exhibit A attached hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to Exhibit A.

BE IT FURTHER RESOLVED, that the City Manager or his designee, are hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

[Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

[Signature] 

ADAM U. LINDGREN, City Attorney
CONTRACT NO. ______

BY AND BETWEEN

CITY OF MODESTO

AND

NOSSAMAN LLP

FOR

EMINENT DOMAIN LEGAL SERVICES FOR THE STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY PROJECT

This contract (referred to as “Contract”), is made and entered into on the ___ day of ______, 2018 ("Effective Date"), by and between the City of Modesto ("CITY"), whose address is: 1010 10th Street, Suite 6300, Modesto, CA 95354; and Nossamon, LLP ("ATTORNEY"), whose address is: 777 South Figueroa Street, 34th Floor, Los Angeles, CA 90017. CITY and ATTORNEY are each a “Party” and collectively the “Parties".
RECITALS

A. CITY requires certain legal services as described in Exhibit A to this Contract; and

B. ATTORNEY has confirmed that ATTORNEY has the requisite personnel and experience and is fully capable and qualified to perform the legal services described; and

C. ATTORNEY desires to perform the legal services for the compensation and in accordance with the terms and conditions set forth in this Contract.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1. DESCRIPTION OF WORK

1.1 ATTORNEY agrees to perform the work and services set forth in Exhibit A “Scope of Work” (“Work” or “Services”), in accordance with all applicable professional standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined herein, but only upon CITY’s issuance of and in accordance with the terms and instructions contained in one or more written Contract Task Orders (“CTO”) executed by both parties. The word “Work” includes without limitation, the performance, fulfillment and discharge by ATTORNEY of all obligations, duties, tasks, and services imposed upon or assumed by ATTORNEY hereunder; and the Work performed hereunder shall be completed to the satisfaction of CITY, with CITY’s satisfaction being based on prevailing applicable professional standards.

1.2 The Project Manager for this Contract is John Rawles, or such other designee as shall be designated in written notice to ATTORNEY from time to time by the City Manager of CITY or his or her designee. The Project Manager shall have authority to act on behalf of CITY in administering this Contract, including giving notices (including without limitation, notices of default and/or termination), technical directions and approvals; issuing, executing and amending CTO’s; demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

ARTICLE 2. PERIOD OF PERFORMANCE

2.1 The Period of Performance by ATTORNEY under this Contract shall commence upon the Effective Date, unless agreed otherwise, and shall continue in full force and effect through December 31, 2021, or until otherwise terminated as provided in Article 16, or unless extended as hereinafter provided by written amendment, except that all indemnity and defense obligations hereunder shall survive termination of this Contract. ATTORNEY shall not be compensated for any work performed or costs incurred prior to issuance of the Effective Date.

2.2 CITY at its sole discretion may extend the original term of the Contract for two
one-year option(s). The maximum term of this Contract, including the Option Term(s), if exercised, will not exceed December 31, 2023.

ARTICLE 3. COMPENSATION

3.1 Total compensation to ATTORNEY for full and complete performance of the Work set forth in Article I, in compliance with all the terms and conditions of this Contract, and any CTO’s issued, payment by ATTORNEY of all obligations incurred in, or application to, ATTORNEY’S performance of the Services, and for which ATTORNEY shall furnish all personnel, facilities, equipment, materials, supplies, and the Services (except as may be explicitly set forth in this Contract as furnished by CITY), shall not exceed the amount set forth in 3.2 below.

3.2 The total Not-To-Exceed Amount for all CTOs issued to ATTORNEY is $2,000,000.

3.3 All Services shall be reimbursed pursuant to the hourly labor rates identified in Attachment B “Attorney’s Fees and Charges” and the executed CTO. The hourly labor rates identified in Attachment B, shall remain fixed for the term of this Contract and shall include ATTORNEY’s direct labor costs, indirect costs, and profit. All expenses shall be reimbursed for the amount identified in Attachment B. CITY will not reimburse for any expenses not shown in Attachment B.

3.4 As the need for legal services are required, CITY will issue a request for CTO based on services and cost identified in 3.2 above. CITY does not guarantee any certain number of CTOs will be issued during the term of this Contract. Award of CTOs is at the sole discretion of the CITY.

3.5 The Cost Principles and Procedures set forth in 48 CFR, Ch. 1, subch. E, Part 31, as constituted on the Effective Date of this Contract shall be utilized to determine allowability of costs under this Contract and may be modified from time to time by written amendment of the Contract.

3.5.1 ATTORNEY agrees to comply with Federal Department of Transportation procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

3.5.2 Any costs for which payment has been made to ATTORNEY that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31, or 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, shall be repaid by ATTORNEY to CITY.

3.6 Any Work provided by ATTORNEY not specifically covered by the Scope of Work shall not be compensated without prior written authorization from CITY. It shall be ATTORNEY’S responsibility to recognize and notify CITY in writing when services not covered by the Scope of Work have been requested or are required. All changes and/or modifications to the Scope of Work shall be made in
accordance with the “CHANGES” Article in this Contract. Any additional services agreed to in accordance with this Contract shall become part of the Work.

3.7 CITY shall reimburse ATTORNEY for the actual, reasonable and necessary expense of travel out of the Modesto metropolitan area, approved in advance, at $0.56 per mile. ATTORNEY will not charge CITY for the cost of telephone calls. Litigation costs and expenses for statutory fees, witness fees, reporters’ per diem and stenographic transcriptions, jury fees, and the expenses of serving process shall be advanced by ATTORNEY and reimbursed by CITY. Expert consultants and witnesses may be retained by ATTORNEY on terms acceptable to CITY, approved in advance by email or letter by the Project Manager, in which case CITY shall reimburse ATTORNEY or pay such consultants or experts directly.

ARTICLE 4. PAYMENT

4.1 The compensation of ATTORNEY shall be payable sixty (60) calendar days after receipt by CITY of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Work.

4.2 ATTORNEY shall prepare all invoices in a form satisfactory to and approved by CITY and it shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a monthly billing period and will be marked with CITY’s contract number, if applicable. Invoices shall be submitted within fifteen (15) calendar days for the period covered by the invoice. Invoices shall request payment for Work (including additional Work authorized by CITY) completed by ATTORNEY during each billing period. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to ATTORNEY. Any costs incurred by ATTORNEY in connection with the resubmission of a proper invoice shall be at ATTORNEY’s sole expense.

4.3 No payment will be made prior to approval of any Work, nor shall any Work be performed prior to approval of this Contract by CITY’s duly authorized representative.

4.4 ATTORNEY agrees to promptly pay each subcontractor for the satisfactory completion of all work performed under this Contract no later than ten (10) calendar days from the receipt of payment from CITY. CITY reserves the right to request documentation from ATTORNEY showing payment has been made to its subcontractors.

4.5 In addition to the provisions stated elsewhere in this Agreement regarding the payment of fees, billing and budgeting, the following guidelines for billing apply:

4.5.1 CITY expects each individual working on the matter for which Attorney is retained to have the necessary experience to perform the services required to protect or pursue CITY’s interests in the matter in a cost effective manner, consistent with high professional and ethical standards.
4.5.2 CITY expects ATTORNEY to select the individual most suitable for the task required and the specific needs of the matter, and to use the maximum efficiencies available. Billings for services performed by the inappropriate level of personnel will be reduced by CITY based on rate adjustments for the appropriate level of personnel.

4.5.3 CITY will not pay for unnecessary review of texts, codes, rules of court, or other fundamental references. CITY will pay the hourly rate for specific legal research which is unique to the matter, assuming that ATTORNEY has used maximum efficiencies and that ATTORNEY has not already recently performed research in the same or very similar areas of law.

4.5.4 CITY acknowledges the benefit of communications between attorneys in the firm. CITY does, however, expect that intra-office conferences will only be held as needed, and will be kept to a minimum. Intra-office conferences shall be for the purpose of discussing strategy and legal issues which directly further the matter. CITY will not pay for conferences which are supervisory, instructional or administrative. Any invoice which lists an intra-office conference that does not meet these guidelines must contain a full explanation and is subject to reduction by CITY. CITY will not pay for “team meetings” and CITY will scrutinize all intra-office conferences for “value added” to the matter by the conference, for the number of individuals attending the conference, the length of the conference, the subjects discussed at the conference and who participated in it, and will, in CITY’s sole discretion, determine if such value has been added.

4.5.5 CITY will not pay for local telephone calls, incoming facsimiles, postage, time spent on filing, calendaring, indexing pleadings, conferences with Clerks of court or court reporters, proofreading, re-drafting due to substandard work, or opening, organizing or closing files. CITY will not pay for time billed by summer interns or associates, time for more than one individual to attend a trial, hearing, court appearance, arbitration, mediation, deposition, third party meeting, conference call or similar event, unless otherwise approved by CITY in advance.

4.5.6 Vague billing which does not contain sufficient information to allow CITY’s reviewer of the invoice to determine the nature of the task, the reason for the task, and the individual performing the task is subject to reduction by CITY.

4.5.7 CITY will not reimburse for overtime, word processing, supplies, anything identified on an invoice as “miscellaneous,” or any other unidentified charges.

ARTICLE 5. TAXES, DUTIES AND FEES

Except to the extent expressly provided elsewhere in this Contract, ATTORNEY shall pay when due, and the compensation set forth in Article 3 will be inclusive of, all (a) local, municipal, state, and federal sales and use taxes; (b) excise taxes; (c) taxes on personal
property owned by ATTORNEY; and (d) all other governmental fees and taxes or charges of whatever nature applicable to ATTORNEY to enable it to conduct business.

ARTICLE 6. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not allocated and available to CITY for the continuance of Work performed by ATTORNEY, Work directly or indirectly involved may be suspended or terminated by CITY at the end of the period for which funds are available. When CITY becomes aware that any portion of Work will or may be affected by a shortage of funds, it will immediately so notify ATTORNEY. Nothing herein shall relieve CITY from its obligation to compensate ATTORNEY for Work performed pursuant to this Contract. No penalty shall accrue to CITY in the event this provision is exercised.

ARTICLE 7. DOCUMENTATION AND RIGHT TO AUDIT

7.1 ATTORNEY shall provide CITY and its authorized representatives or agents access to ATTORNEY's records which are directly related to this Contract for the purpose of inspection, auditing or copying. ATTORNEY shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by CITY, except in the event of litigation or settlement of claims arising out of this Contract, in which case ATTORNEY agrees to maintain records through the conclusion of all such litigation, appeals or claims related to this Contract. ATTORNEY further agrees to maintain separate records for costs of work performed by amendment. ATTORNEY shall allow CITY or its representatives or agents to reproduce any materials as reasonably necessary. This Article applies to all subcontractors at any tier that are performing work under this Contract.

7.2 The cost proposal for this Contract is subject to audit at any time. After ATTORNEY receives any audit recommendations the Cost Proposal shall be adjusted by ATTORNEY and approved by CITY's General Counsel to conform to the audit recommendations. ATTORNEY agrees that individual items of cost identified in the audit report may be incorporated into this Contract at CITY's sole discretion. Refusal by the ATTORNEY to incorporate the audit or post award recommendations will be considered a breach of the Contract terms and cause for termination of the Contract.

ARTICLE 8. RESPONSIBILITY OF ATTORNEY

ATTORNEY shall be responsible for the professional quality, technical accuracy, and assurance of compliance with all applicable Federal, state and local laws and regulations and other services furnished by ATTORNEY under the terms of this Contract.

ARTICLE 9. REPORTING AND DELIVERABLES

All reports and deliverables shall be submitted in accordance with Exhibit A, "Scope of Work".

Legal Services w/Federal provisions
ARTICLE 10. CHANGES

10.1 The Work shall be subject to changes by additions, deletions, or revisions made by CITY. ATTORNEY will be advised of any such changes by written notification from CITY describing the change.

10.2 Promptly after such written notification of change is given to ATTORNEY by CITY, ATTORNEY and CITY will attempt to negotiate a mutually agreeable change in compensation or time of performance and amend the Contract accordingly.

ARTICLE 11. EQUAL EMPLOYMENT OPPORTUNITY/DRUG FREE WORKPLACE

11.1 During the term of this Contract, ATTORNEY shall not willfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, gender, sex, marital status, gender identity, gender expression, sexual orientation, age, or military and veteran status. ATTORNEY agrees to comply with the provisions of Federal Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and local laws, regulations and policies relating to equal employment and contracting opportunities, including laws, regulations and policies hereafter enacted.

11.2 The contractor and all subcontractors shall comply with all provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin. In addition, the contractor and all subcontractors will ensure their services are consistent with and comply with obligations and procedures outlined in CITY’s current Board-adopted Title VI Program, including the Public Participation Plan and the Language Assistance Plan.

11.3 ATTORNEY agrees to comply with the Drug Free Workplace Act of 1990 set forth in Government Code section 8350 et seq.

ARTICLE 12. CONFLICT OF INTEREST

ATTORNEY agrees that it presently has no interest financial or otherwise and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. ATTORNEY further agrees that in the performance of this Contract, no person having any such interest shall be employed. ATTORNEY is obligated to fully disclose to the CITY, in writing, of any conflict of interest issues as soon as they are known to ATTORNEY. ATTORNEY shall indemnify and hold harmless CITY from and against any and all liability, loss, expense and obligation arising directly or indirectly out of any breach of the foregoing representation and warranty. ATTORNEY agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City at all times during the performance of this Agreement.
ARTICLE 13. KEY PERSONNEL

Key personnel and their functions specified in Exhibit C, Key Personnel, are considered to be essential to Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects, or reallocation of tasks and hours of Work, which are the responsibility of key personnel, to other personnel, ATTORNEY shall notify CITY’s City Attorney reasonably in advance and shall submit justifications (including proposed substitutions) in sufficient detail to permit evaluation of the import on the Project. Diversion or reallocation of key personnel shall be subject to written approval by CITY’s City Attorney. CITY’s City Attorney also reserves the right to approve proposed substitutions for key personnel. In the event that CITY’s City Attorney and ATTORNEY cannot agree as to the substitution of key personnel, CITY shall be entitled to terminate this Contract.

ARTICLE 14. REPRESENTATIONS

Work supplied by ATTORNEY under this Contract shall be supplied by personnel who are careful, skilled, experienced and competent and possess all necessary licenses and permits in their respective trades or professions.

ARTICLE 15. PROPRIETARY RIGHTS/CONFIDENTIALITY

15.1 If, as a part of this Contract, ATTORNEY is required to produce materials, documents, data, or information (“Products”), then ATTORNEY, if requested by CITY, shall deliver to CITY the original of all such Products which shall become the sole property of CITY.

15.2 All materials, documents, data or information obtained from CITY’s data files or any CITY medium furnished to ATTORNEY in the performance of this Contract will at all times remain the property of CITY. Such data or information may not be used or copied for direct or indirect use outside of the Work being performed by ATTORNEY without the express written consent of CITY.

15.3 ATTORNEY shall not use CITY’s name, photographs or Products in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of CITY.

15.4 All press releases, or press inquiries relating to the Work or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be provided or handled only by CITY unless otherwise agreed to by ATTORNEY and CITY.

15.5 Except as reasonably necessary for the performance of Work, ATTORNEY agrees that it, and its employees, agents, and subcontractors will hold confidential and not divulge to third parties without the prior written consent of CITY, any information obtained by ATTORNEY from or through CITY in connection with ATTORNEY’s performance of Work under this Contract, unless (a) the information was known to ATTORNEY prior to obtaining same from CITY pursuant to a...
prior contract; or (b) the information was obtained at the time of disclosure to ATTORNEY, or thereafter becomes part of the public domain, but not as a result of the fault or an unauthorized disclosure of ATTORNEY or its employees, agents, or subcontractors, or (c) the information was obtained by ATTORNEY from a third party who did not receive the same, directly or indirectly, from CITY and who had, to ATTORNEY’s knowledge and belief, the right to disclose the same.

ARTICLE 16. TERMINATION

16.1 Termination for Convenience. CITY shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to ATTORNEY specifying the date of termination. On the date of such termination stated in said notice, ATTORNEY shall promptly discontinue performance of Work and shall preserve work in progress and completed work (“Work”), pending CITY’s instruction, and shall turn over such Work in accordance with CITY’s instructions.

16.1.1 ATTORNEY shall deliver to CITY all deliverables prepared by ATTORNEY or its subcontractors or furnished to ATTORNEY by CITY. Upon such delivery, ATTORNEY may then invoice CITY for payment in accordance with the terms hereof.

16.1.2 If ATTORNEY has fully and completely performed all obligations under this Contract up to the date of termination, ATTORNEY shall be entitled to receive from CITY as complete and full settlement for such termination a pro rata share of the contract cost and a pro rata share of any fixed fee, for such Work satisfactorily executed to the date of termination.

16.1.3 ATTORNEY shall be entitled to receive the actual cost incurred by ATTORNEY to turn over work in progress in accordance with CITY’s instructions plus the actual cost necessarily incurred in effecting the termination.

16.2 Termination for Cause.

16.2.1 In the event ATTORNEY shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against ATTORNEY or a receiver shall be appointed on account of its solvency, or if ATTORNEY shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice thereof, CITY may, without prejudice to any other rights or remedies CITY may have, and in compliance with applicable Bankruptcy Laws: (a) hold in abeyance further payments to ATTORNEY; (b) stop any
services of ATTORNEY or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to ATTORNEY specifying the date of termination. In the event of such termination by CITY, CITY may take possession of the deliverables and finish Work by whatever method CITY may deem expedient. A waiver by CITY of one default of ATTORNEY shall not be considered to be a waiver of any subsequent default of ATTORNEY, nor be deemed to waive, amend, or modify any term of this Contract.

16.2.2 In the event of termination ATTORNEY shall deliver to CITY all finished and unfinished products prepared under this Contract by ATTORNEY or its subcontractors or furnished to ATTORNEY by CITY.

16.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to CITY, satisfactory in form and content to CITY and verified by CITY. In no event shall ATTORNEY be entitled to any prospective profits or any damages because of such termination.

ARTICLE 17. STOP WORK ORDER

Upon failure of ATTORNEY or its subcontractors to comply with any of the requirements of this Contract, CITY shall have the authority to stop any Work of ATTORNEY or its subcontractors affected by such failure until such failure is remedied or to terminate this Contract in accordance with Article 16, "TERMINATION".

ARTICLE 18. CLAIMS

CITY shall not be bound to any adjustments in the Contract amount or time for ATTORNEY’s claim unless expressly agreed to by CITY in writing and any such adjustments in the Contract amount so agreed to in writing shall be paid to ATTORNEY by CITY. No claim hereunder by ATTORNEY shall be allowed if asserted after final payment has been made under this Contract.

ARTICLE 19. INSURANCE

Without in any way affecting the indemnity provisions of this Contract, ATTORNEY shall, at the ATTORNEY’s sole expense, and prior to the commencement of any work, procure and maintain in full force the insurance set forth in this Article at least through the entire term of this Contract. The policies shall be written by a carrier with an A.M. Best rating of A-VII or better, or similar qualifications, and shall be written with at least the following limits of liability:

19.1 Professional Liability – Professional liability insurance in an amount not less than $1,000,000 for each claim and $2,000,000 aggregate total for all claims. Professional liability insurance may be provided on a claims-made basis. If such policy contains a retroactive date for coverage of prior acts, this date will be prior to the date the ATTORNEY begins to perform work under this Contract. ATTORNEY shall secure and maintain “tail” coverage for a minimum of (3) years
after Contract completion.

19.2 **Workers’ Compensation** – Worker’s Compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability in an amount not less than $1,000,000 covering all persons providing services on behalf of ATTORNEY and all risks to such persons under this Contract.

19.3 **Commercial General Liability** – Commercial General Liability insurance for Premises and Operations, Contractual Liability, Products/Completed Operations Liability, Personal Injury Liability, Broad-Form Property Damage and Independent Contractors’ Liability, in an amount of not less than $1,000,000 per occurrence, combined single limit, and $2,000,000 in the aggregate written on an occurrence form. For products and completed operations a $2,000,000 aggregate shall be provided.

This Commercial General Liability insurance shall be primary and non-contributory with any insurance carried or administered by CITY.

19.4 **Proof of Coverage** – ATTORNEY shall furnish certificates of insurance to CITY evidencing the insurance coverage required in this Article, prior to the commencement of performance of Work, and such certificates shall include CITY and its officers, employees, agents and volunteers, as additional insureds on the Commercial General Liability and automobile insurance policies. Prior to commencing any work, ATTORNEY shall furnish CITY with certificates of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Article. If the insurance company elects to cancel or non-renew coverage for any reason, ATTORNEY will provide CITY thirty (30) days prior written notice of cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium ATTORNEY will provide CITY ten (10) days written notice. ATTORNEY shall maintain such insurance for the entire term of this Contract. The certificate(s) of insurance are to include the Contract number and City Attorney’s name on the face of the certificate(s).

19.5 **Additional Insured** – All policies, except for Worker’s Compensation and Professional Liability insurance policies, shall contain endorsements naming CITY and its officers, employees, agents, and volunteers as additional insureds with respect to liabilities arising out of the performance of Work hereunder. The additional insured endorsements shall not limit the scope of coverage for CITY to vicarious liability but shall allow coverage for CITY to the full extent provided by the policy.

19.6 **Waiver of Subrogation Rights** – ATTORNEY shall require the Commercial General Liability, Automobile Liability and Workers Compensation insurance policies to be endorsed to waive all rights of subrogation against CITY, its
officers, employees, agents, volunteers, contractors, and subcontractors. Such insurance policies shall not prohibit ATTORNEY or ATTORNEY’S employees or agents from waiving the right of subrogation prior to a loss or claim. ATTORNEY hereby waives all rights of subrogation against CITY.

19.7 CITY shall withhold payments to ATTORNEY if the certificates of insurance and endorsements required in this section are canceled or ATTORNEY otherwise ceases to be insured as required herein.

ARTICLE 20. INDEMNITY

ATTORNEY shall fully indemnify and save harmless, CITY, its officers and employees, including without limitation the City Attorney, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY’s staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as “Liabilities”), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of ATTORNEY, its subcontractors or agents, and their respective officers and employees, in connection with the performance or nonperformance of this Agreement, whether or not the CITY, its officers or employees reviewed, accepted or approved any service or work product performed or provided by the ATTORNEY, and whether or not such Liabilities are litigated, settled or reduced to judgment.

ATTORNEY shall, upon CITY’s request, defend at ATTORNEY’s sole cost any action, claim, suit, cause of action or portion thereof which asserts or alleges Liabilities to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of ATTORNEY, its sub-attorneys, subcontractors or agents, and their respective officers and employees, in connection with the performance or nonperformance of this Agreement, whether such action, claim, suit, cause of action or portion thereof is well founded or not.

The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY’s rights under this section, nor shall the limits of such insurance limit the liability of ATTORNEY hereunder.

ARTICLE 21. ERRORS AND OMISSIONS

ATTORNEY shall be responsible for the professional quality, technical accuracy, and coordination of all Work required under this Contract. ATTORNEY may be liable for CITY’s costs resulting from errors or deficiencies, fines, penalties and damages arising out of Work furnished under this Contract.

ARTICLE 22. OWNERSHIP OF DOCUMENTS

22.1 All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by ATTORNEY under this Contract shall become the sole
property of CITY when prepared, whether delivered to CITY or not.

22.2 Applicable patent rights provisions regarding rights to inventions shall be included in the Contract as appropriate (48 CFR 27, Subpart 27.3, Patent Rights under Government Contracts for federal-aid contracts).

22.3 CITY may permit copyrighting reports or other agreement products. If copyrights are permitted, the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

22.4 Any subcontract in excess of $25,000 entered into as a result of this Contract, shall contain all of the provisions of this Article.

ARTICLE 23. SUBcontracts

23.1 ATTORNEY shall not subcontract performance of all or any portion of Work under this Contract, except those subcontractors listed in the ATTORNEY’s proposal, without first notifying CITY of the intended subcontracting and obtaining CITY’s written approval of the subcontracting and the subcontractor. The definition of subcontractor and the requirements for subcontractors hereunder shall include all subcontractors at any tier.

23.2 ATTORNEY agrees that any and all subcontractors of ATTORNEY will comply with the terms of this Contract applicable to the portion of Work performed by them. If requested by CITY, ATTORNEY shall furnish CITY a copy of the proposed subcontract for CITY City Attorney’s approval of the terms and conditions thereof and shall not execute such subcontract until CITY has approved such terms and conditions. CITY approval shall not be unreasonably withheld.

23.3 Approval by CITY of any Work to be subcontracted and of the subcontractor to perform the Work will not relieve ATTORNEY of any responsibility or liability in regard to the acceptable and complete performance of the Work. Any substitution of subcontractors must be approved in writing by CITY’s City Attorney.

ARTICLE 24. INDEPENDENT CONTRACTOR

ATTORNEY is and shall be at all times an independent contractor and that no relationship of employer-employee exists between the Parties hereto for any purpose whatsoever. Neither ATTORNEY nor ATTORNEY’s assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to ATTORNEY under the provisions of this Agreement, and ATTORNEY shall be issued an IRS Form 1099 for its services hereunder. As an independent contractor, ATTORNEY hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of ATTORNEY’s employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature
and/or performance of any Services under this Agreement. Accordingly, all Work provided by ATTORNEY shall be done and performed by ATTORNEY under the sole supervision, direction and control of ATTORNEY. CITY shall rely on ATTORNEY for results only, and shall have no right at any time to direct or supervise ATTORNEY or ATTORNEY’s employees in the performance of Work or as to the manner, means and methods by which Work are performed. All workers furnished by ATTORNEY pursuant to this Contract, and all representatives of ATTORNEY, shall be and remain the employees or agents of ATTORNEY or of ATTORNEY’s subcontractor(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of CITY.

ARTICLE 25. DISADVANTAGED BUSINESS ENTERPRISES

CITY, as the recipient of federal funds, is required to comply with any requirements to involve Disadvantaged Business Enterprises (DBEs) to the maximum extent feasible in all phases of its procurement practices. The ATTORNEY must certify that it has complied with the requirements of 49 CFR Part 26. The ATTORNEY shall have on file with the FTA an approved or non-disapproved annual DBE subcontracting participation goal program.

The ATTORNEY agrees to ensure that DBEs as defined in 49 CFR Part 26 have the opportunity to participate in the performance of Subcontracts financed in whole or in part with Federal funds provided under the Contract. In this regard, the ATTORNEY shall take all reasonable steps in accordance with 49 CFR Part 26 so that DBEs have the opportunity to compete for and perform the Work. The ATTORNEY shall not discriminate on the basis of race, color, religion, sex, age or national origin, in the award and performance of DOT-assisted contracts.

The ATTORNEY shall supply sufficient information in its payment applications and supporting documentation to enable CITY and Caltrans to assess whether ATTORNEY is complying with its DBE goals. The ATTORNEY shall comply with its Caltrans approved or non-disapproved DBE goal program.

ARTICLE 26. STATEMENT OF COMPLIANCE

26.1 ATTORNEY’s signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that ATTORNEY has, unless exempt, complied with, the nondiscrimination program requirements of Title 2 California Code of Regulations (CCR) Section 11102 and applicable Federal law.

26.2 During the performance of this Contract, ATTORNEY and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or use of family care leave. ATTORNEY and subcontractors shall ensure that the evaluation and treatment of
their employees and applicants for employment are free from such discrimination and harassment. ATTORNEY and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (Title 2 CCR Sections 11005 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Subchapter 5 of Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. ATTORNEY and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

ARTICLE 27. DEBARMENT AND SUSPENSION CERTIFICATION

27.1 ATTORNEY's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that ATTORNEY has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to CITY.

27.2 Exception will not necessarily result in denial of recommendation for award, but will be considered in determining ATTORNEY responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

ARTICLE 28. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

ATTORNEY warrants that this Contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right in its discretion: to terminate the Contract without liability; to pay only for the value of the Work actually performed; or to deduct from the Contract price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE 29. PROHIBITION OF EXPENDING CITY, STATE OR FEDERAL FUNDS FOR LOBBYING

29.1 ATTORNEY certifies to the best of his or her knowledge and belief that:

29.1.1 No state, federal or local agency appropriated funds have been paid, or will be paid by or on the behalf of ATTORNEY to any person for
influencing or attempting to influence an officer or employee of any state or federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any state or federal contract, the making of any state or federal grant, the making of any state or federal loan, the entering into of any cooperative agreement or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, or loan, or cooperative agreement.

29.1.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, ATTORNEY shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.

29.2 This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

29.3 ATTORNEY also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed $100,000, and that all such sub-recipients shall certify and disclose accordingly.

ARTICLE 31. ATTORNEY’S FEES

If any legal action is instituted to enforce or declare any Party’s rights hereunder, each Party, including the prevailing party, must bear its own costs and attorneys’ fees. This Article shall not apply to those costs and attorneys’ fees directly arising from any third party legal action against a Party hereto and payable under the “Indemnity” provision of this Contract.

ARTICLE 32. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in Stanislaus County, California. The Parties agree that the venue for any action or claim brought by any Party to this Contract will be the Superior Court of California for Stanislaus County. Each Party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties agree to
use their best efforts to obtain a change of venue to the Superior Court of California for Stanislaus County.

ARTICLE 33. FEDERAL, STATE AND LOCAL LAWS

ATTORNEY warrants that in the performance of this Contract, it shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations.

ARTICLE 34. CONTRACT DOCUMENTS/PRECEDENCE

34.1 The Contract consists of the Contract Articles, Exhibit A “Scope of Work”, Exhibit B “Attorneys’ Fees and Charges”, Exhibit C “Key Personnel”, Exhibit D “Notice”, CITY’s Request for Proposals (if applicable), and ATTORNEY’s proposal (if applicable), all of which are incorporated into this Contract by this reference.

34.2 In the event of a conflict in the terms of the Contract documents, the following order of precedence shall apply: (1) the Contract Articles; (2) Exhibits A, B, C and D; (3) CITY’s Request for Proposals (if applicable); and (4) ATTORNEY’s Proposal (if applicable).

34.3 In the event of an express conflict between the documents listed in this Article, or between any other documents which are a part of the Contract, ATTORNEY shall notify CITY in writing within three (3) business days of its discovery of the conflict and shall comply with CITY’s determination of a resolution of the conflict.

ARTICLE 35. COMMUNICATIONS AND NOTICES

Any and all notices permitted or required to be given hereunder shall be deemed duly given (a) upon actual delivery, if delivery is personally made, or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier including overnight delivery services. Each such notice shall be sent to the respective Party at the address indicated in Exhibit D, “Notice”, or to any other address as the respective parties may designate from time to time by a notice given in accordance with this Article. A change in address may be made by notifying the other Party in writing.

ARTICLE 36. DISPUTES

36.1 In the event any dispute arises between the Parties in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, services to be performed, Scope of Work and/or time of performance), the dispute shall be decided by CITY within thirty (30) calendar days after ATTORNEY gives CITY written notice of the dispute, which shall include a particular statement of the grounds of the dispute. If ATTORNEY does not agree with the decision, then ATTORNEY shall have thirty (30) calendar days after receipt of the decision in which to file a written appeal thereto with the City Manager of CITY. If the City Manager fails to resolve the dispute in a
manner acceptable to ATTORNEY, then such appeal shall be decided by a court of competent jurisdiction.

36.2 During the pendency of efforts to resolve the dispute, ATTORNEY shall proceed with performance of this Contract with due diligence.

ARTICLE 37. GRATUITIES

ATTORNEY, its employees, agents, and representatives shall not offer or give to an officer, official, or employee of CITY gifts, entertainment, payments, loans, or other gratuities to influence the award of a contract or obtain favorable treatment under a contract.

ARTICLE 38. REVIEW AND ACCEPTANCE

All Work performed by ATTORNEY shall be subject to periodic review and approval by CITY at any and all places where such performance may be carried on. Failure of CITY to make such review, or to discover defective work, shall not prejudice the rights of CITY at the time of final acceptance. All Work performed by ATTORNEY shall be subject to periodic and final review and acceptance by CITY upon completion of all Work.

ARTICLE 39. SAFETY

ATTORNEY shall strictly comply with all local, municipal, state, and federal safety and health laws, orders and regulations applicable to ATTORNEY’s operations in the performance of Work.

ARTICLE 40. ASSIGNMENT

The expertise and experience of ATTORNEY are material considerations for this Contract. CITY has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on ATTORNEY under this Contract. In recognition of this interest, ATTORNEY shall not assign any right or obligation under this Contract in whole or in part, voluntarily, by operation of law, or otherwise, without first obtaining the written consent of CITY. CITY’s exercise of consent shall be within its sole discretion. Any attempted or purported assignment without CITY’s written consent shall be void and of no effect. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the Parties hereto.

ARTICLE 41. AMENDMENTS

No change, modification or alteration of this Contract shall be binding unless expressed in writing duly executed by ATTORNEY and CITY. However, changes to the Contract to implement administrative changes such as approved changes in key personnel as provided in Exhibit C “Key Personnel”, may be made by administrative amendment signed by ATTORNEY and CITY’s General Counsel or other duly authorized representative.
ARTICLE 42. CONTINGENT FEE

ATTORNEY warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ATTORNEY for the purpose of securing business. For breach or violation of this warranty, CITY has the right to annul this Contract without liability, pay only for the value of Work actually performed, or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 43. FORCE MAJEURE

ATTORNEY shall not be in default under this Contract in the event that the Work provided/work performed by ATTORNEY are temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemic, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, severe weather or other catastrophic events which are beyond the reasonable control of ATTORNEY and which ATTORNEY could not reasonably be expected to have prevented or controlled. Other catastrophic events do not include the financial inability of the ATTORNEY to perform or failure of the ATTORNEY to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of ATTORNEY.

ARTICLE 44. ENTIRE DOCUMENT

This Contract and its Exhibits constitute the sole and entire agreement between the Parties governing the Work, and supersedes any prior understandings, negotiations, agreements, arrangements and undertakings, written or oral, between the Parties respecting the subject matter herein. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been incorporated into this Contract. It is the intent of the Parties that this Contract is an integrated agreement and that no evidence may be introduced to vary in any manner its terms and conditions. No representation, warranty, covenant, inducement or obligation not included in this Contract shall be binding.

ARTICLE 45. CONSTRUCTION OF CONTRACT

The language of this Contract will be construed in accordance with its fair meaning. This Contract shall be interpreted and construed as drafted by all Parties with equal participation in the drafting hereof and shall not be construed in favor of or against a Party by reason of participation or lack of participation of that Party or its counsel in the drafting of this Contract.

ARTICLE 46. ENFORCEMENT OF CONTRACT
This Contract shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Contract shall lie exclusively in the state trial court located in Stanislaus County, in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in that court, and consent to service of process issued by that court.

ARTICLE 47. THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Contract. Other than the Parties, no person, political subdivision, agency, board, department, division or commission shall be entitled to bring an administrative or judicial proceeding to enforce or interpret its terms.

ARTICLE 48. HEADINGS

All paragraph headings throughout this Contract are for convenience of reference only.

ARTICLE 49. ORIGINALS AND COPIES

This Contract with the Exhibits attached may be executed in counterparts, each of which shall be deemed an original. In any action or proceeding, an exact and correct copy may be used in lieu of an original.

ARTICLE 50. SEVERABILITY

If any portion of this Contract or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

ARTICLE 51. WAIVER

Neither CITY's acceptance of, or payment for, any Work performed by ATTORNEY, nor any waiver by either Party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Contract, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

ARTICLE 52. EFFECTIVE DATE

The date that this Contract is executed by CITY shall be the Effective Date of the Contract.
IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

ATTORNEY

By: ________________________________

Artin N. Shaverdian
Partner

CITY

By: ________________________________

Joseph P. Lopez
City Manager

Date: ________________________________

APPROVED AS TO FORM

By: ________________________________

Adam U. Lindgren
City Attorney

CONCURRENCE

By: ________________________________

Cynthia Kline
Purchasing Manager
EXHIBIT A – "SCOPE OF WORK"
EXHIBIT B – "ATTORNEYS' FEES AND CHARGES"
### Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Artin Shaverdian</td>
<td>Partner</td>
<td>Project Manager/Team Leader</td>
<td>$385</td>
</tr>
<tr>
<td>David Graeler</td>
<td>Partner</td>
<td></td>
<td>$385</td>
</tr>
<tr>
<td>Bernadette Duran-Brown</td>
<td>Partner</td>
<td></td>
<td>$385</td>
</tr>
<tr>
<td>Kristin Mendenhall</td>
<td>Staff Attorney</td>
<td></td>
<td>$385</td>
</tr>
<tr>
<td>Diana McMillin</td>
<td>Paralegal</td>
<td></td>
<td>$200</td>
</tr>
<tr>
<td>April Fromm</td>
<td>Paralegal</td>
<td></td>
<td>$200</td>
</tr>
</tbody>
</table>

*We will charge City one-half (1/2) attorneys’ applicable blended rate for any travel related to this project.

### Other Direct Cost Schedule (ODC)

*All ODC’s are to be proposed at cost-without mark-ups.*

<table>
<thead>
<tr>
<th>Type of ODC</th>
<th>Unit Cost</th>
<th>Estimated Budget Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air travel at cost but not first class or business select. Lodging and other travel related expenses including ground transportation at cost.</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Computer assisted research expenses are charged at cost.</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>We will pass on to the City postage-related charges at the actual cost, including overnight carrier and messenger fees as necessary.</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>We will pass on to the City direct cost of any filing fees charged by outside vendors for court filings, including fees for electronic court filings and service of process.</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Photocopying will be passed on to the City at cost.</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

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Proposer

Signature of Authorized Person

Date
EXHIBIT C – "KEY PERSONNEL"
EXHIBIT D – “NOTICE”

<table>
<thead>
<tr>
<th>TO ATTORNEY</th>
<th>TO CITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nossaman LLP</td>
<td>1010 10th Street</td>
</tr>
<tr>
<td>777 S. Figueroa</td>
<td>Suite 6300</td>
</tr>
<tr>
<td>Street, 34th Floor</td>
<td>Modesto, CA 95354</td>
</tr>
<tr>
<td>Los Angeles, CA 90017</td>
<td></td>
</tr>
<tr>
<td>Attn: Artin Shaverdian</td>
<td>Attn: Adam U. Lindgren</td>
</tr>
<tr>
<td>Phone: (213) 612-7811</td>
<td>City Attorney</td>
</tr>
<tr>
<td>Email: <a href="mailto:ashaverdian@nossaman.com">ashaverdian@nossaman.com</a></td>
<td>cc: Purchasing Manager</td>
</tr>
<tr>
<td>Email: <a href="mailto:alindgren@modestogov.com">alindgren@modestogov.com</a></td>
<td>Phone: 209-577-5284</td>
</tr>
</tbody>
</table>

Legal Services w/Federal provisions
RESOLUTION AMENDING THE FISCAL YEAR 2018-2019 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT #100614 IN THE AMOUNT OF $2,000,000 FOR THE STATE ROUTE 132 WEST EXPRESSWAY PROJECT

WHEREAS, the State Route 132 West Freeway/Expressway – Phase 1 Project (Project) proposes to construct a two-lane highway on a new alignment in Stanislaus County and the City of Modesto from State Route 99 just south of Kansas Avenue to Dakota Avenue; and

WHEREAS, on May 2, 2017 the City Council, by Resolution No. 2017-175 authorized the appropriation of $4,000,000 in Streets Capital Facility Fees reserve funds to the State Route 132 West Expressway project, and

WHEREAS, on October 10, 2017, by Resolution 2017-403, Council approved a Measure L Cooperative Agreement with StanCOG (StanCOG Cooperative Agreement) for the Plans, Specifications and Estimates Stage of Phase 1 of the State Route 132 Project, through which StanCOG has agreed to reimburse the City up to $10 million for costs relating to the PS&E Phase of the Project; and

WHEREAS, on October 24, 2017, by Resolution 2017-424 Council approved a Joint Powers Agreement with Stanislaus County (County) to engage right of way acquisition services in County lands outside City limits, through which the County delegated to the City its authority under State law to acquire real property for the purposes of acquisition services in support of the construction of the Project; and
WHEREAS, on February 27, 2018, by Resolution 2018-85, Council authorized early acquisition of real property prior to Environmental Document approval, and delegated to Staff authority to acquire property up to certain specified amounts; and

WHEREAS, on June 12, 2018, by Resolution 2018-237, Council approved increases in the amounts of delegated authority to acquire property for the Project; and

WHEREAS, Council has authorized a total of $11,935,081 for right of way acquisitions, utilizing City of Modesto Capital Facilities Fees (CFF) funds, Federal Demonstration Program (DEMO) grant funds, and Stanislaus County Public Facility Fees (PFF) funds; and

WHEREAS, on March 2, 2018, the California Department of Transportation (Caltrans) approved the Environmental Document and selected Project Alternative 2; and

WHEREAS, on August 8, 2018, by Resolution 2018-315, Council approved a Cooperative Agreement between the City and Caltrans, which sets forth the roles and responsibilities of the City and Caltrans with respect to the Project; and

WHEREAS, on July 27, 2018, staff solicited proposals from law firms for Eminent Domain Legal Services for the State Route 132 West Freeway/Expressway Phase 1 Project in accordance with state and federal requirements; and

WHEREAS, proposals were received, evaluated and ranked; and

WHEREAS, the City selected Nossaman LLP as the top ranked firm; and

WHEREAS, Nossaman LLP has agreed to a contract for eminent domain legal services in an amount not to exceed $2,000,000 for the State Route 132 West Freeway/Expressway Phase 1 Project; and
WHEREAS, the Fiscal Year 2018-2019 Capital Improvement Program Budget needs to amended by $2,000,000 for the State Route 132 West Freeway/Expressway Phase 1 Project and funds need to be appropriated from the Streets Capital Facility Fees reserve funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2018-2019 Capital Improvement Project budget for project #100614 State Route 132 West Freeway/Expressway – Phase 1 Project for an amount of $2,000,000 and appropriates funds from the Streets Capital Facility Fees fund reserves.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2018, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney