RESOLUTION APPROVING A THIRD AMENDMENT TO THE LEGAL SERVICES AGREEMENT DATED DECEMBER 21, 2016 WITH NORTON ROSE FULBRIGHT US LLP IN AN AMOUNT NOT TO EXCEED $80,000, FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED $415,000 TO CONTINUE REPRESENTING THE CITY IN FINANCE MATTERS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Attorney’s Office is in need of outside counsel services that relate to finance matters; and

WHEREAS, Norton Rose Fulbright US LLP has represented the City in finance matters since December of 2016; and

WHEREAS, additional essential legal work needs to be performed that will result in fees exceeding the agreed upon budget of $335,000; and

WHEREAS, the City Attorney’s Office desires to extend the agreement with Norton Rose Fulbright US LLP; and

WHEREAS, the City Attorney’s office has drafted a Third Amendment to the Legal Services agreement with Norton Rose Fulbright US LLP to continue services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the Legal Services Agreement with Norton Rose Fulbright US LLP in an amount not to exceed $80,000, for a total agreement amount of $415,000 to continue representing the City in finance matters, 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 in a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
THIRD AMENDMENT TO LEGAL SERVICES AGREEMENT

This Third Amendment for Legal Services (this “Third Amendment”), is made and entered into on ______ day of ______ 2019 (“Effective Date”), by and between the CITY OF MODESTO, a California Municipal Corporation (“City”), and NORTON ROSE FULBRIGHT US LLP, a Texas limited liability partnership (“Attorney”), located at 580 California Street, Floor 16, San Francisco, California 94104. City and Attorney are hereinafter collectively referred to as the “Parties,” and singularly as “Party”.

RECITALS

WHEREAS, City and Attorney entered into a Legal Services Agreement (“Agreement”) for services for legal advice, representation and assistance on matters involving finance matters; and

WHEREAS, Attorney is specially trained, experienced and competent to perform such services; and

WHEREAS, the public interest, economy and general welfare will be served by the Agreement; and

WHEREAS, City and Attorney desire to amend the Agreement for further service by increasing the previously approved amount of fees by $80,000.

NOW, THEREFORE, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Norton Rose Fulbright US LLP, dated December 21, 2016, and amended by Resolution No. 2017-308 and Resolution No. 2017-499 is amended as follows:

1. Section 2(a) of Paragraph 2, “Fees and Costs,” Hourly Rates is amended to state as follows:

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (thereafter the “Service”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of four hundred and fifteen thousand dollars ($415,000).”

2. Entire Agreement. The parties to this Third Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated December 21, 2016, remain in full force and effect to the extent they are not in conflict with this Third Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Third Amendment. No alteration to the terms of this Third Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.
3. **Authority.** The person signing this Third Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Third Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

   IN WITNESS WHEREOF, the Parties have executed this Third Amendment as of the dates stated below.

   **CITY OF MODESTO,**
   A Municipal Corporation

   By: ________________________________

   Print name: Joseph P. Lopez

   Title: City Manager

   **APPROVED TO AS FORM:**

   ________________________________

   Adam U. Lindgren, City Attorney

   **ATTEST:**

   ________________________________

   Stephanie Lopez, City Clerk

   [Signatures Continued on Next Page.]
Federal I.D. No.

State I.D. No.


TYPE OF BUSINESS ENTITY (check one):

____ Individual/Sole Proprietor
____ Partnership
____ Corporation
____ Limited Liability Company
____ Other (please specify: ______________________)

Signature of Authorized Person

Title

Additional Signature (if required)

Title
RESOLUTION AMENDING THE 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 2018-19.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney

ATTEST: STEPHANIE LOPEZ, City Clerk
EXHIBIT A
FISCAL YEAR 2018-19

COMMUNITY & ECONOMIC DEVELOPMENT

A budget adjustment in the amount of $700,000 is needed to budget the revenue and expense associated with the Downtown Modesto Community Benefit District special assessment (Fund 1210 – Downtown Modesto Community Benefit District).

FIRE DEPARTMENT

During the budget development process for this fiscal year, the Modesto Fire Department’s Safer Grant was budgeted for 6 month since the grant was only going to be through December with the balance of those positions costs moved to General Fund. Since the City was not going to be able to spend the balance of the grant by December, an extension was requested and word was received on February 13, 2019 that the extension was approved until the funds run out or by May 13, 2019. Due to the extension of the grant a budget adjustment is needed to move Salary, Benefits and ISF cost back to the 2015 FEMA Safer Grant cost center within the Grants Operation Grants Reimbursed Fund in the amount of $346,129 from the Suppression cost center within the General Fund.

POLICE DEPARTMENT

A budget adjustment is necessary to reduce Consultant Charges, Equipment Acquisition and Other Costs CIP by $127,632 in the MPD Scheduling and Timekeeping Management Software System Project (101007) and establish a transfer out of the project to General Fund in the same amount as the invoices were paid out of the MPD Field Operations cost center. This is being processed as a transfer since the invoices were paid out of a prior fiscal year and will reimburse General Fund for the expense that it incurred.

PUBLIC WORKS DEPARTMENT

A budget adjustment is necessary to establish the budget for capital improvement project 101161-PW-Bus Turnout S.R. 132/Maze Boulevard in the amount of $90,720 funded with Local transportation funds. This project will install a new bus turnout on Maze Boulevard by Franklin Elementary School. Funds for this project were originally budgeted in non-capital project 101023 but because of the nature of the project it was determined a new CIP should be created. This budget adjustment also reduces the budget for project 101023-PW - Bus Stops Improv/Repairs 2017 in the same amount.
<table>
<thead>
<tr>
<th>Fund</th>
<th>Fund Name</th>
<th>Account - Revenue/Expense</th>
<th>Current Budget</th>
<th>Increase/ (Decrease)</th>
<th>Revised Budget</th>
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<td>1210</td>
<td>Downtown Modesto Community Benefit District</td>
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<td>Downtown Modesto Community Benefit District</td>
<td>Intergovernmental Services (Expenses)</td>
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<td>2015 FEMA SAFER Grant Expenditures</td>
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<td>$346,129</td>
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<td>General Fund</td>
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<td>3120</td>
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<td>Project #101007 Expenditures</td>
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<td>($127,632)</td>
<td>$9,731</td>
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<td>Project #101007 Transfer Out to General Fund (0100)</td>
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<td>0100</td>
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<td>Bus Fixed Route Fund</td>
<td>Improv/Repairs</td>
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RESOLUTION APPROVING A COOPERATIVE AGREEMENT WITH THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE PREPARATION OF PLANS, SPECIFICATIONS AND ESTIMATE (PS&E) FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION – PHASE 2 PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State Route 99 / Pelandale Avenue Interchange Reconstruction Project is a project to increase safety, relieve congestion, and enhance traffic operations within the Interchange and along the adjacent streets, and

WHEREAS, in an effort to accelerate the planning and construction of the interchange, the City Council in their Fiscal Year 2005-06 Capital Improvement Program approved 1.3 million and subsequently approved staff’s request to explore the City taking the lead on the State Route 99/Pelandale Avenue Interchange Reconstruction Project improvements, Project Approval and Environmental Document, and

WHEREAS, on February 3, 2009, by Resolution No. 2009-058, Council approved Cooperative Agreement No. 10-321 between the City of Modesto and Caltrans for the PS&E as one phase for the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, an initial study with Mitigated Negative Declaration was prepared by the City’s consultant and submitted to Caltrans for approval. This Document (SCH# 2009072012) was approved by Caltrans on September 28, 2009, and

WHEREAS, in December 2011, StanCOG adopted the 2012 Regional Transportation Improvement Program (STIP), which added $4.336 million in right-of-way funds for FY 15/16 to the project, and
WHEREAS, in early 2012, the City was informed that State Proposition 1B Saving Funds would be available in 2013 for construction of the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, acquiring the “Carl’s Jr.” property (APN 135-029-022) in the timeframe necessary to accept the construction funds would not be achievable, and

WHEREAS, on May 17, 2012, a Supplemental Project Report #2 was issued indicating the right-of-way requirements for Phase I of the project are less than the necessary project right-of-way described in the December 2009 approved Project Report, and

WHEREAS, acquisition of the “Carl’s Jr.” property was deferred to a later date and STIP funds were reprogrammed by StanCOG to FY 16/17, and

WHEREAS, in June 2016, the $4.336 million in Right-of-Way funds were programmed out by StanCOG from FY 16/17 to FY 17/18 due to a negative STIP fund balance, and

WHEREAS, on October 19, 2017, the California Transportation Commission approved $4,336,000 of the STIP funds to complete right-of-way acquisition for the Project’s second phase, and

WHEREAS, this Cooperative Agreement for PS&E is required by Caltrans and formalizes the City’s Lead Agency status and outlines the agreement between the agencies for the Project’s second phase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Cooperative Agreement with Caltrans for the preparation of PS&E for the State Route 99/Pelandale Avenue Interchange Reconstruction – Phase 2 project.
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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-114

RESOLUTION APPROVING A COOPERATIVE AGREEMENT WITH THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR ACQUISITION OF RIGHT-OF-WAY FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION - PHASE 2 PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State Route 99 / Pelandale Avenue Interchange Reconstruction Project is a project to increase safety, relieve congestion, and enhance traffic operations within the Interchange and along the adjacent streets, and

WHEREAS, in an effort to accelerate the planning and construction of the interchange, the City Council in their Fiscal Year 2005-06 Capital Improvement Program approved 1.3 million and subsequently approved staff’s request to explore the City taking the lead on the State Route 99/Pelandale Avenue Interchange Reconstruction Project improvements, Project Approval and Environmental Document, and

WHEREAS, an initial study with Mitigated Negative Declaration was prepared by the City’s consultant and submitted to Caltrans for approval. This Document (SCH# 2009072012) was approved by Caltrans on September 28, 2009, and

WHEREAS, on June 9, 2011, the City Manager approved Cooperative Agreement No. 10-322 between the City of Modesto and Caltrans for the acquisition of right-of-way as one phase for the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, in December 2011, StanCOG adopted the 2012 Regional Transportation Improvement Program (STIP), which added $4.336 million in Right-of-Way funds for FY 15/16 to the project, and
WHEREAS, in early 2012, the City was informed that State Proposition 1B Saving Funds would be available in 2013 for construction of the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, acquiring the “Carl’s Jr.” property (APN 135-029-022) in the timeframe necessary to accept the construction funds would not be achievable, and

WHEREAS, on May 17, 2012, a Supplemental Project Report #2 was issued indicating the right-of-way requirements for Phase 1 of the project are less than the necessary project right-of-way described in the December 2009 approved Project Report, and

WHEREAS, acquisition of the “Carl’s Jr.” property was deferred to a later date and STIP funds were reprogrammed by StanCOG to FY 16/17, and

WHEREAS, in June 2016, the $4.336 million in right-of-way funds were programmed out by StanCOG from FY 16/17 to FY 17/18 due to a negative STIP fund balance, and

WHEREAS, on October 19, 2017, the California Transportation Commission approved $4,336,000 of the STIP funds to complete right-of-way acquisition for the Project’s second phase, and

WHEREAS, this Cooperative Agreement for acquisition right-of-way is required by Caltrans and formalizes the City’s Lead Agency status and outlines the agreement between the agencies for the Project’s second phase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Cooperative Agreement with Caltrans for acquisition of right-of-way for the State Route 99/Pelandale Avenue Interchange Reconstruction – Phase 2 project.
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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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 ACCEPTING STATE TRANSPORTATION IMPROVEMENT PROGRAM FUNDS ALLOCATED BY THE CALIFORNIA TRANSPORTATION COMMISSION IN THE AMOUNT OF $4,336,000 FOR THE STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION – PHASE 2 PROJECT

WHEREAS, the State Route 99 / Pelandale Avenue Interchange Reconstruction Project is a project to increase safety, relieve congestion, and enhance traffic operations within the Interchange and along the adjacent streets, and

WHEREAS, in an effort to accelerate the planning and construction of the interchange, the City Council in their Fiscal Year 2005-06 Capital Improvement Program approved 1.3 million and subsequently approved staff’s request to explore the City taking the lead on the State Route 99/Pelandale Avenue Interchange Reconstruction Project improvements, Project Approval and Environmental Document, and

WHEREAS, an initial study with Mitigated Negative Declaration was prepared by the City’s consultant and submitted to Caltrans for approval. This Document (SCH# 2009072012) was approved by Caltrans on September 28, 2009, and

WHEREAS, on June 9, 2011, the City Manager approved Cooperative Agreement No. 10-322 between the City of Modesto and Caltrans for the acquisition of right-of-way as one phase for the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, in December 2011, StanCOG adopted the 2012 Regional Transportation Improvement Program (STIP), which added $4.33 million in Right-of-Way funds for FY 15/16 to the project, and
WHEREAS, in early 2012, the City was informed that State Proposition 1B Saving Funds would be available in 2013 for construction of the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, acquiring the “Carl’s Jr.” property (APN 135-029-022) in the timeframe necessary to accept the construction funds would not be achievable, the project was forced to split into two phases, and

WHEREAS, on May 17, 2012 a Supplemental Project Report #2 was issued indicating the right-of-way requirements for Phase 1 of the project are less than the necessary project right-of-way described in the December 2009 approved Project Report, and

WHEREAS, acquisition of the “Carl’s Jr.” property was deferred to a later date and STIP funds were reprogrammed by StanCOG to FY 16/17, and

WHEREAS, in June 2016, the $4.336 million in right-of-way funds were programmed out by StanCOG from FY 16/17 to FY 17/18 due to a negative STIP fund balance, and

WHEREAS, on October 19, 2017, the California Transportation Commission approved $4,336,000 of the STIP funds to complete right-of-way acquisition for the project’s second phase.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the State Transportation Improvement Program Funds allocated by the California Transportation Commission in the amount of $4,336,000 for the State Route 99/Pelandale Avenue Interchange Reconstruction – Phase 2 Project.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

SEAL

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2018-19 CAPITAL IMPROVEMENT PROGRAM BUDGET, PROJECT #101063 IN THE AMOUNT OF $4,336,000 FOR STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION - PHASE 2 PROJECT UPON RECEIPT OF AUTHORIZATION TO PROCEED (E-76) FROM CALTRANS

WHEREAS, the State Route 99 / Pelandale Avenue Interchange Reconstruction Project is a project to increase safety, relieve congestion, and enhance traffic operations within the Interchange and along the adjacent streets, and

WHEREAS, in an effort to accelerate the planning and construction of the interchange, the City Council in their Fiscal Year 2005-06 Capital Improvement Program approved 1.3 million and subsequently approved staff’s request to explore the City taking the lead on the State Route 99/Pelandale Avenue Interchange Reconstruction Project improvements, Project Approval and Environmental Document, and

WHEREAS, an initial study with Mitigated Negative Declaration was prepared by the City’s consultant and submitted to the Caltrans for approval. This Document (SCH# 2009072012) was approved by Caltrans on September 28, 2009, and

WHEREAS, on June 9, 2011, the City Manager approved Cooperative Agreement No. 10-322 between the City of Modesto and Caltrans for the acquisition of right-of-way as one phase for the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, in December 2011, StanCOG adopted the 2012 Regional Transportation Improvement Program (STIP), which added $4.336 million in Right-of-Way funds for FY 15/16 to the project, and
WHEREAS, in early 2012, the City was informed that State Proposition 1B Saving Funds would be available in 2013 for construction of the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, acquiring the “Carl’s Jr.” property (APN 135-029-022) in the timeframe necessary to accept the construction funds would not be achievable, the project was forced to split into two phases, and

WHEREAS, on May 17, 2012 a Supplemental Project Report #2 was issued indicating the right-of-way requirements for Phase 1 of the project are less than the necessary project right-of-way described in the December 2009 approved Project Report, and

WHEREAS, acquisition of the “Carl’s Jr.” property was deferred to a later date and STIP funds were reprogrammed by StanCOG to FY 16/17, and

WHEREAS, in June 2016, the $4.336 million in right-of-way funds were programmed out by StanCOG from FY 16/17 to FY 17/18 due to a negative STIP fund balance, and

WHEREAS, on October 19, 2017, the California Transportation Commission approved $4,336,000 of the STIP funds to complete right-of-way acquisition for the project’s second phase, and

WHEREAS, authorization to proceed (E-76) from Caltrans is needed for expenditure of STIP funds, and

WHEREAS, amending the Fiscal Year 2018/19 Capital Improvement Program Budget for project #101063 in the amount of $4,336,000 for State Route 99/Pelandale Avenue Interchange Reconstruction - Phase 2 project upon receipt of authorization to proceed (E-76) from Caltrans is necessary.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2018/19 Capital Improvement Program Budget, project #101063 in the amount of $4,336,000 for the State Route 99/Pelandale Avenue Interchange Reconstruction – Phase 2 project upon receipt of authorization to proceed (E-76) from Caltrans.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-117

RESOLUTION APPROVING THE AGREEMENT WITH THE PUBLIC GROUP FOR AN ONLINE AUCTION SERVICE FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $18,000 AND A TOTAL AMOUNT NOT TO EXCEED $90,000 OVER FIVE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City utilizes an online application for auctioning the City’s obsolete, unused or surplus property items, and

WHEREAS, The Public Group’s online application, which is called Public Surplus, is an online auction system that address the needs of public agencies. The agencies can use the Public Surplus system to organize, automate, and manage their entire surplus inventory operations which allows for significant returns from the sale of excess property while minimizing associated costs, and

WHEREAS, the Public Surplus system’s capabilities include:

1. Helping agencies comply with state and local regulations and policies by automatically maintaining audit records

2. Ability to attract specialty buyers from across the United States

3. Allow for out of state sales due to new regulations regarding the sale of diesel-fueled vehicles

WHEREAS, The Public Group is the City’s current vendor for online auction services since January 2007. Current agreement with Public Group will end on April 30, 2019, and

WHEREAS, in reviewing the competitive bidding process for the City of Tucson, they awarded a competitive Request for Proposal (RFP) for online auction services which resulted in the award of a contract to The Public Group, and
WHEREAS, Modesto Municipal Code authorizes entities to rely on terms that have already been competitively bid “piggybacking” in certain situations; based on the review of the bidding process for the City of Tucson, the City will “piggybacking” on their bid, and

WHEREAS, the Purchasing Manager has determined, pursuant to Section 8-3.204(d) of the MMC, that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, current estimated annual online auction services costs are approximately $18,000 and vary each year depending on the number of items sold. There is a 5% surcharge fee payable only when items sell, and which is included as part of the overall cost to the buyer.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto' that it hereby authorizes an agreement with The Public Group LLC for a term of two-years with three one-year extension options, for an anticipated annual cost not to exceed $18,000 and a total amount not to exceed $90,000 over five years.

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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-118

RESOLUTION APPROVING PURCHASE AGREEMENTS WITH VARIOUS VENDORS AS DEFINED UNDER ATTACHMENT A; APPROVING TERMINATION DATES FOR THE SERVICES STATED HEREIN; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE IDENTIFIED ANNUAL PURCHASE AGREEMENTS TERMINATION DATES APPROVED BY COUNCIL

WHEREAS, on January 23, 2018, City staff presented to City Council the modification and extension request of various purchasing agreements which exceeded City Council’s authority, and
WHEREAS, City staff has continued to work diligently in monitoring all purchasing agreements and towards implementing recommendations to establish improvements with the City’s purchasing controls, and
WHEREAS, the Finance Department has implemented bi-monthly purchasing training to educate City Staff about the standards which govern the City’s purchases, including the City’s Charter, Municipal Code, and the implementation of Administrative Directive 7.5 Purchasing Policy, and
WHEREAS, the Finance Department has worked with the departments to address the backlog of competitive bids that need to be completed and have been working to strategize the best solution to ensure new agreements can be approved by the time existing agreements expire, and
WHEREAS, the Finance Department, via the Purchasing Division, has identified a number of agreements that require further time extensions of their termination dates (as shown in Attachment A – Purchasing Agreement Extension Dates), and
WHEREAS, the extension of these term dates for existing agreements will not alter the dollar amount of said agreements nor the terms and conditions of the agreements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchasing agreements with various vendors as attached; and approves the term dates for the services stated herein.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is authorized to issue the identified Annual Purchase Agreements terms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
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<th>No.</th>
<th>Description</th>
<th>Supplier</th>
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<th>Vendor Invoices Past or Pending Payment - 01/1/16</th>
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RESOLUTION APPROVING A SERVICE AGREEMENT WITH LOOMIS ARMORED US, LLC HOUSTON, TEXAS FOR ARMORED CAR TRANSPORT FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL COST NOT TO EXCEED $48,000 FOR THE FIRST YEAR OF SERVICE, WITH ANNUAL INCREASES ESTIMATED AT TEN PERCENT OVER THE FIVE YEAR PERIOD, AND A TOTAL AMOUNT NOT TO EXCEED $294,000 OVER FIVE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City uses armored car transport to increase safety and lower risk of theft; this service eliminates City staff from making trips to the bank, lowers risk to both staff and customers of theft at various City facilities and to provide an economical way of getting cash deposits to the bank, and

WHEREAS, in December 2017, a bid authorization to issue a formal Request for Proposal (RFP) was approved and forwarded to the Purchasing Division, and

WHEREAS, on May 24, 2018, the Purchasing Division issued Request for Proposal (RFP) 1718-55 through PlanetBids with a proposal response due June 26, 2018, and

WHEREAS, no suppliers responded to the RFP; the Purchasing Division reached out to suppliers including the existing supplier, Loomis to understand why no response was made to the RFP, and

WHEREAS, the Purchasing Division negotiated a new Service Agreement with Loomis to provide armored car services with an initial term of two years with three one-year renewal options, 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 follow formal bid procedures; however, MMC 8-3.204(c) provides that a purchase may be exempted from the City’s formal bidding requirement where the Purchasing Manager determines that calling for bids on a competitive basis is undesirable due to exigent circumstances; the City completed the formal bidding requirements but due to no response the City is moving forward with continuing services with the existing provider, Loomis Armored.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Service Agreement with Loomis Armored US, LLC Houston, Texas for armored car transport for a two-year agreement with three one-year extension options, for an annual cost not to exceed $48,000 for the first year of service, with annual increases estimated at ten percent over the five year period, and a total amount not to exceed $294,000 over five years.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is 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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
RESOLUTION APPROVING A PURCHASING AGREEMENT WITH AVIATE ENTERPRISES, INC., MCCLELLAN, CA FOR THE PURCHASE OF A GENIE Z-30/20N RJ BOOM LIFT FOR A TOTAL COST NOT TO EXCEED $60,817, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto Bus Maintenance Facility performs a variety of maintenance items required by the Federal Transit Administration (FTA) both inside and outside the facility, and

WHEREAS, the Bus Maintenance Facility currently does not have a boom lift to efficiently perform maintenance operations around the facility, and

WHEREAS, this boom lift will be utilized to maintain external lighting in the parking lots, and exterior of the facility; along with providing safe access to roof areas, solar panels, interior shop lighting, HVAC service, gutters, and security camera maintenance without the use of a ladder, and

WHEREAS, this unit was approved to support operational needs and is needed to avoid renting or outsourcing all maintenance activities, and

WHEREAS, this will also enhance the maintenance of the facility and keep it in superior condition and reducing operating costs in the future, and

WHEREAS, on October 9, 2018, the Purchasing Division issued RFB 1819-10 for the purchase of a boom lift on the City’s website, and

WHEREAS, on November 13, 2018, bids were formally opened in the City Clerk’s Office, with one company choosing to respond and providing a responsive and responsible bid, and

WHEREAS, sufficient funds for this unit are budgeted in the State of Good
Repair Grant awarded to the Transit Division (Fund No: 101022-PW.Transit Services-Vehicles>$5,000-Appr.Unit C).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase agreement with Aviate Enterprises, Inc., McClellan, CA for the purchase of one Genie Z-30/20N RJ Boom Lift.

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 $60,817.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
RESOLUTION APPROVING THE PURCHASE OF A REPLACEMENT FORKLIFT FOR UNLOADING SUPPLIES FROM JM EQUIPMENT, MANTECA, CA, FOR A TOTAL AMOUNT NOT TO EXCEED $36,982, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, a replacement forklift for the Traffic Operations Division will replace their current 1999 model, and will assist them with unloading supplies as part of their daily duties, and

WHEREAS, replacement units are essential in maintaining current operations, facilities, and/or services, and

WHEREAS, on December 27, 2018, the Purchasing Division issued RFB 1819-38 for the purchase of a 6,000 pound forklift, and

WHEREAS, on January 20, 2019, bids were formally opened in the City Clerk’s Office and two companies chose to respond, providing responsive and responsible bids, and

WHEREAS, funds have been collected, approved and allocated in the budget adoption for Fiscal Year 2016-2017 in the Fleet Replacement Fund, and

WHEREAS, funding for this unit was collected through the Internal Service Fund for Surface Transportation Fund – Traffic Operations via straight-line depreciation over the life of the vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of a replacement forklift from JM Equipment, Manteca, CA.

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 $36,982.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-122

RESOLUTION APPROVING AN AGREEMENT WITH GROUP SEVEN LABORATORY SERVICES, STOCKTON, CA FOR LABORATORY TRAINING SERVICES FOR THE ELAP TO TNI STANDARDS TRANSITION, IN THE AMOUNT OF $96,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Utilities Department owns and operates the Water Quality Control Laboratory (WQC Lab), located at 1221 Sutter Avenue, and

WHEREAS, the WQC Lab analyzes compliance and investigative samples of water, wastewater and storm water for the City, and

WHEREAS, the WQC Lab is equipped for general physical, mineral, inorganic, bacteriological and biological testing, and

WHEREAS, California’s Environmental Laboratory Accreditation Program (ELAP) recently added the requirement for all laboratories that were previously certified under ELAP to transition to the National Environmental Laboratory Accreditation Conference (NELAC) Institute standards, and

WHEREAS, the first draft of the new regulation was published in July of 2017 with a deadline for compliance of January 1, 2022, and

WHEREAS, the Utilities Department Water Division must be in compliance due to the State Water Resources Control Board Drinking Water Regulations and due to the existing partnership with MID for the purchase of surface water, MID must transition to NELAC Institute Standards requirements when testing drinking water that is supplied to the City of Modesto for our customers, and

WHEREAS, considering the specialized nature and specific requirements associated with the NELAC Institute (TNI) standards, consultant services are needed to
provide, train and assist the City and Modesto Irrigation District laboratory staff in understanding and interpreting the TNI standards for compliance, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement; However, May 22, 2018, staff issued a Request for Qualifications and Request for Proposal through PlanetBids for consultant services to provide training and transitional services from ELAP to TNI standards, and

WHEREAS, one Statement of Qualifications and Proposal was submitted by Group Seven Laboratory Services of Stockton, CA, and

WHEREAS, a selection committee comprised of Utilities Department Water and Wastewater staff, as well as Modesto Irrigation District laboratory staff, reviewed the qualification and proposal package and determined that Group Seven Laboratory Services were responsive and qualified to provide ELAP to TNI transitional services, update the existing quality manuals and standard operating procedures in a TNI compliant format and assist with the implementation of TNI policies, practices and procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Group Seven Laboratory Services, Stockton, CA for Laboratory Training Services for the ELAP to TNI Standards Transition in an amount not to exceed $96,000.

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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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:  

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
WELL 72 (REPLACING WELL 229) PROJECT, ACCEPTING THE BID, AND
AWARDING A CONSTRUCTION CONTRACT TO NOR-CAL PUMP & WELL
DRILLING, INC., OF YUBA CITY, CA IN THE AMOUNT OF 556,906, AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE CONTRACT

WHEREAS, specifications have been prepared for the Well 72 (Replacing Well
229) Project, and

WHEREAS, the five bids received for the Well 72 (Replacing Well 229) Project
were opened at 11:00 a.m. on November 13, 2018 pursuant to Modesto Municipal Code
section 8-3.403 and Charter section 1307, and

WHEREAS, the Director of Utilities has recommended that the bid of $556,906
received from Nor-Cal Pump & Well Drilling, Inc., be accepted as the lowest responsible
and responsive bid and the contract be awarded to Nor-Cal Pump & Well Drilling, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the plans and specifications for the Well 72 (Replacing Well 229)
Project, accepts the bid of $556,906 and awards Nor-Cal Pump & Well Drilling, Inc., of
Yuba City, CA, the contract for the Well 72 (Replacing Well 229) Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the contract, 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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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: Steiphania Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, PLEASANTON, CA FOR HYDROGEOLOGICAL AND ENGINEERING DESIGN SERVICES DURING CONSTRUCTION FOR THE WELL 72 (REPLACING WELL 229) PROJECT, IN AN AMOUNT NOT TO EXCEED $209,800 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $20,980 FOR ADDITIONAL SERVICES (IF NEEDED), FOR AN AMOUNT NOT TO EXCEED $230,780, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, City Well 229 is strategically important to the City’s water supply infrastructure, and

WHEREAS, the drilling method used originally in 1950 was not able to isolate specific water layers allowing contaminants to travel into the pumped water source, and

WHEREAS, a new, deeper replacement well, built to current well construction standards is proposed to be drilled on the existing site, and

WHEREAS, during the bidding of Well 229, staff was informed by the Department of Water Recourses that well number 229 could not be re-used; Therefore, the project became Well 72 (Replacing Well 229), and

WHEREAS, given the unique and specialized expertise required for design of municipal wells, and consideration of the amount of work that was previously completed satisfactorily, the Utilities Director determined to have final subsurface design services provided by West Yost Associates, and

WHEREAS, it was determined that it was both fiscally and efficiently prudent to move forward with an agreement for Hydrogeological and Engineering Services During Construction with West Yost Associates, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), "Exceptions to Formal Bidding Requirements," this agreement for professional services
is exempt from the bidding requirements of Modesto Municipal Code 8-3.203. However, the consultant was selected through the review processes outlined in the City’s Administrative Directive 3.1.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Yost Associates, Pleasanton, CA for Hydrogeological and Engineering Design Services During Construction for the Well 72 (Replacing Well 229) Project in an amount not to exceed $209,800, for the identified scope of services, plus $20,980 for additional services, if needed, for an amount not to exceed $230,780.

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 12th day of March 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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. LINDGRENF, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-125

RESOLUTION AUTHORIZING AN INCREASE IN THE DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS FOR THE WELL 72 (REPLACING WELL 229) PROJECT FROM 10 PERCENT ($55,691) TO 25 PERCENT ($139,227) OF THE CONSTRUCTION CONTRACT AMOUNT

WHEREAS, on March 12, 2019, the City Council is concurrently awarding a $556,906 contract to Nor-Cal Pump & Well Drilling, Inc., of Yuba City, CA for the construction of the Well 72 (Replacing Well 229) Project, and

WHEREAS, given the nature of the project, additional work may be needed to address unexpected conditions that require changes in project scope, and

WHEREAS, the additional costs may exceed the Director’s authority for the project as established by the Council’s Change Order Approval Policy adopted by Resolution No. 94-443.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders for the Well 72 (Replacing Well 229) Project from 10 percent ($55,691) to 25 percent ($139,227) of the construction contract price of $556,906 with Nor-Cal Pump & Well Drilling, Inc., of Yuba City, CA.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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: 

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2018-19 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF $88,172 TO BE TRANSFERRED INTO THE PROJECT FROM WATER FUND RESERVES IN ORDER TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION, CITY CONSTRUCTION FORCES, AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE WELL 72 (REPLACING WELL 229) PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, certain budgetary transactions are necessary in the amount of $88,172 in order to fund construction, contingency, construction administration, City construction forces, and design support during construction plus City staff time in support of the Well 72 (Replacing Well 229) Project, and

WHEREAS, the Fiscal Year 2018-2019 Capital Improvement Program Budget must be amended as shown in Exhibit A, which is incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2018-2019 Capital Improvement Program 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 12th day of March, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, 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: ____________________________

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ________________________________

ADAM U. LINDGREN, City Attorney
### Exhibit A

**100853 - Well 72 (Replacing Well 229)**

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**Total**

$1,795,000.00 $617,897.29 $240,669.75 $936,432.90 $1,024,604.00 $(88,171.04)
RESOLUTION APPROVING AMENDMENT #2 TO THE CITY OF MODESTO PROGRAM YEAR 2018-2019 ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, as a U.S. Department of Housing and Urban Development (HUD) entitlement community, the City of Modesto is required to develop an Annual Action Plan that describes proposed activities funded with Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Solutions Grant (ESG) funds, and

WHEREAS, the City of Modesto is required to develop an amendment to the Annual Action Plan when it makes changes to its planned or actual activities funded with Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Solutions Grant (ESG) funds, and

WHEREAS, an amendment to an Annual Action Plan describes the proposed changes and planned activities to address the needs and priorities established in the Consolidated Plan, and

WHEREAS, the City of Modesto is conducting an Amendment #2 to the Program Year 2018-2019 Annual Action Plan, and

WHEREAS, the purpose of Amendment #2 to the City of Modesto’s Program Year 2018-2019 Annual Action is to address the U.S. Department of Housing and Urban Development (HUD) Department’s reduction of the City of Modesto 2018-2019 Community Development Block Grant allocation, and
WHEREAS, the CDBG Program has a timely expenditure requirement per 24 CFR 570.902, where at 60 days prior to the end of the program year, the grantee may only have a balance of 1.5 times their annual allocation, and

WHEREAS, the City had an excess of $385,135 on May 2, 2018 when HUD reviewed the balance, and

WHEREAS, therefore the 2018-2019 CDBG grant allocation was reduced from $2,003,752 to $1,618,617 which reflects a reduction of $385,135, and

WHEREAS, a proposed amendment must be made available for public review through which the public is provided an opportunity to comment for a minimum of 30 days, and

WHEREAS, staff held eight community meetings as part of the Amendment #2 Citizen Participation process, and

WHEREAS, a 30-day public period to review and comment on the draft Amendment #2 opened February 9, 2019 and will close with a public hearing at the City Council meeting on March 12, 2019, and

WHEREAS, any comments received during the public review period or during the March 12, 2019, City Council meeting will be incorporated into the Amendment #2 to the Program Year 2018-2019 Annual Action Plan that is submitted to HUD, and

WHEREAS, there is no impact to the General Fund and Amendment #2 will address HUD’s entitlement funding reduction to the CDBG program and allocate program income and revolving loan funds throughout several Annual Action Plan activities, and
WHEREAS, on February 14, 2019, the City’s Citizens Housing and Community Development Committee recommended forwarding Amendment #2 to the Program Year 2018-2019 Annual Action Plan to the City Council for consideration and approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment #2 to City of Modesto Program Year 2018-2019 Annual Action Plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto 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 12th day of March, 2019, by Councilmember Madrigal, 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
RESOLUTION AMENDING THE FISCAL YEAR 2018-2019 OPERATING, CAPITAL AND MULTI-YEAR PROJECT BUDGETS TO RE-ALLOCATE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AS PROPOSED IN THE PROGRAM YEAR 2018-2019 ANNUAL ACTION PLAN AMENDMENT #2 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto receives annual entitlements from HUD based on its population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, on June 12, 2018, by Resolution 2018-238, City Council approved the Program Year 2018 Annual Action Plan, and

WHEREAS, on October 9, 2018, by Resolution 2018-455, City Council approved Amendment I to the Program Year 2018 Annual Action Plan, and

WHEREAS, certain budgetary transactions are necessary to reallocate funds during the course of the Consolidated Plan cycle when there is a change in allocation priorities, or method of distribution, carrying out new activities with CPD funds, change in purpose, scope, location or beneficiaries of an activity, and

WHEREAS, the Fiscal year 2018-19 budget must be amended as shown in Exhibit A, which is incorporated by reference herein to reflect an approved reallocation of funds as set forth in the Integrated Disbursement and Information System (IDIS) reporting system, and

WHEREAS, a new Multi-Year Project 101163 is being established for Acquisition activities with Revolving Loan Funds in the amount of $443,629.

NOW, THEREFORE, BE IT RESOLVED, that 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 provision of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of March, 2019, by Councilmember Madrigal, 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
## Amendment II Program Year 2018 Annual Action Plan

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**Total** | **$1,087,403.00** | **$290,821.00** | **$1,378,224.00** |