

SPECIAL AGENDA

MODESTO PLANNING COMMISSION AND
FINANCE COMMITTEE
MONDAY, MAY 16, 2022 - 6:00 PM
ZOOM/BASEMENT CHAMBER
1010 TENTH STREET – MODESTO, CA

I. ROLL CALL

Some Commissioners may be participating in the meeting remotely via teleconferencing or other electronic means consistent with AB 361.

THIS MEETING WILL BE PHYSICALLY OPEN TO THE PUBLIC AND BY ZOOM VIDEO CONFERENCING

In order to minimize the spread of the COVID-19 virus, this meeting will be conducted pursuant to AB 361, which amended the Brown Act's teleconferencing provisions.

You may observe a livestream of the meeting at <http://media.modestogov.com> . You may also participate in the meeting as indicated below.

Joining the Planning Commission meeting via Zoom

The City of Modesto is now offering the ability to view and participate in Planning Commission meetings via telephonic conferencing via "Zoom" video conferencing computer technology. The meeting may be accessed through the use of Zoom using the following options:

- Enter the following link into an Internet Browser <https://zoom.us/j/96601765833>
- Enter the following link into an Internet Browser <https://zoom.us/> and using the Webinar ID 966 0176 5833
- To use Zoom, please visit: <https://zoom.us/> and either sign-up for a free Zoom account or continue as a guest. Once you have downloaded the app onto your mobile device, joined from your web browser, or downloaded the Zoom software on your computer you will be ready for the upcoming Commission meeting.

Providing Public Comment on Zoom or via Email

The Planning Commission Chair will open each public hearing item for public comment. Once the Chair has announced the public comment period, please do one of the following.

USING A COMPUTER OR SMART PHONE APP:

- Click on the "Raise Hand" feature in the webinar controls. This will notify City staff that you have raised your hand.
- City staff will unmute your microphone when it is your turn to provide public comment.

- A prompt will appear to confirm you would like to be unmuted and then you will be able to provide your comments.
- Once your public comment has ended, you will be muted again.

If you wish to submit a public comment in writing, please submit your comment, to the Recording Secretary at planning@modestogov.com prior to the start of the meeting. All comments will be shared with the Commission and placed in the record. Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations.

Please Note: In order to respond to COVID-19 the City will hold this meeting via teleconference pursuant to the Governor's Executive Order N-29-20. Some Commissioners may be calling in.

II. CONSENT ITEMS

Continuing to authorize remote teleconference meetings pursuant to AB 361

III. Capital Improvement Program, 2022/23

Consider adopting the attached resolution finding that 1) all new and active projects within the Capital Improvement Program (CIP) budget for Fiscal Year (FY) 2022-23 are in conformance with the Modesto Urban Area General Plan and 2) that the Finance Committee recommend to City Council approval of the FY 2022-23 CIP Budget. (Funding Source: Various Funds)

IV. Oral Communications

These matters may be presented only by interested persons in the audience, staff or Commissioners or Committee Members. Under State law, Commissioners or Committee Members may respond to matters being presented under this item only as follows:

- Briefly respond to statements made or questions raised.
- Ask a question for clarification.
- Provide a reference to staff or other resources for factual information.
- Request staff to report back at a subsequent meeting.
- Finally, the Commission or Committee itself may take action to direct staff to place a matter of business on a future agenda.

V. Matters too Late for the Agenda

These may be presented by members of the Planning Commission, Finance Committee and staff, upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that: 1) there is a need to take immediate action, and 2) that the need for action came to the City's attention after the agenda was posted.

VI. Adjournment

Copies of the agenda are on file at the Stanislaus Library Reference Room, 1500 I Street, Modesto, in the office of the Planning Division, Third Floor, 1010 Tenth Street, Modesto, CA., and online at <https://www.modestogov.com/AgendaCenter/Planning-Commission-11>.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Commission Secretary at 209.577.5267. Assistive listening devices are available upon request to the Planning Commission Secretary. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this

meeting. In accordance with the requirements of Title II of the Americans with Disabilities Act ("ADA") of 1990, the Fair Employment & Housing Act ("FEHA"), the Rehabilitation Act of 1973 (as amended), Government Code section 11135 and other applicable codes, the City of Modesto ("City") will not discriminate against individuals on the basis of disability in the City's services, programs, or activities. For more information, please visit the City of Modesto website at <https://www.modestogov.com/865/Americans-with-Disabilities-Act-ADA>

Notice: Persons who wish to speak to the Planning Commission regarding any item on the printed agenda, including oral communications, are encouraged to please submit your comment, to the Recording Secretary at planning@modestogov.com. All comments will be shared with the Commission and placed in the record. Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. The purpose of this list is to have your name and address should we need to contact you or provide additional information to you. Signing this form is optional to speakers.

Posted pursuant to Government Code Section 54956 on _____ at
by _____ on the bulletin board at Tenth Street Place.



CITY OF MODESTO
PLANNING COMMISSION STAFF REPORT
 1010 10TH STREET
 MODESTO CA 95354
 (209) 577-5267 – (209) 491-5798 (fax)

TO: Chairperson Vohra and Members of the Planning Commission

FROM: Jose Sanchez, City Attorney
 Contact Info: 209-577-5284 jsanchez@modestogov.com

APPROVED BY: Steve Mitchell, Planning Manager

MEETING DATE: May 16, 2022

SUBJECT: Assembly Bill 361 – Continuing Remote Meetings

RECOMMENDATION

Resolution authorizing remote teleconference meetings of the Planning Commission of the City of Modesto pursuant to Assembly Bill 361.

BACKGROUND

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of the novel coronavirus disease 2019 ("COVID-19"). On March 19, 2020, the City Council adopted Resolution Number 2020-140, ratifying the proclamation of a local emergency by the Director of Emergency Services due to COVID-19.

All meetings of the Planning Commission are open and public, as required by the Ralph M. Brown Act, Government Code section 54950 et seq., so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business. On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means in order to slow the spread of COVID-19. As a result of Executive Order N-29-20, staff set up virtual meetings for all Planning Commission. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, ended the provisions of Executive Order N-29-20 that allowed local legislative bodies to conduct meetings telephonically or by other means.

DISCUSSION

On September 16, 2021, the Governor signed Assembly Bill (AB) 361¹ (2021) which allows for local legislative bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the Planning Commission make specified findings. AB 361 took effect immediately. In addition to other circumstances, the City and its legislative bodies will be allowed to continue to meet remotely during a declared state of emergency when state or local health officials have imposed or recommended measures to promote social distancing, or when the Commission finds

¹ Assembly Bill No. 361 - An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB361

that meeting in person would present imminent risks to the health or safety of attendees.

The state of emergency, as declared by the Governor and City Council, continues in existence. Health officials continue to recommend measures to slow the spread of COVID-19. On November 15, 2021, the Stanislaus County Health Officer reiterated her recommendation that “[i]ncreasing distance during meetings and indoor gatherings to six feet or more can help stop the spread” of COVID-19.

In order to continue to hold remote meetings after this Resolution expires, the Planning Commission may reconsider the state of emergency and declare every 30 days that either (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) State or local officials continue to impose or recommend measures to promote social distancing.

The proposed resolution includes the necessary findings in order for the Planning Commission to hold remote teleconference meetings pursuant to AB 361.

ATTACHMENTS

1. Resolution
5048898.1

PLANNING COMMISSION
RESOLUTION NO. 2022-xx

RESOLUTION AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF
THE PLANNING COMMISSION OF THE CITY OF MODESTO PURSUANT TO
ASSEMBLY BILL 361

WHEREAS, the City of Modesto (the "City") is committed to preserving and promoting public access and participation in meetings of the legislative bodies; and

WHEREAS, all meetings of the City are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the City conduct their business; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of the novel coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 19, 2020, the City Council adopted Resolution Number 2020-140, ratifying the proclamation of a local emergency by the Director of Emergency Services due to COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, repealed the provisions of Executive Order N-29-20 that allowed local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (2021) ("AB 361"), which allows for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition of AB 361 is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, AB 361 further requires that state or local officials have imposed or recommended measures to promote social distancing, or, that the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the City may make certain findings every thirty (30) days to continue teleconferencing under Government Code section 54953(e)(3), including reconsideration of the state of emergency declared by the Governor pursuant to Government Code section 8625, and whether State or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the State of Emergency declared by the Governor pursuant to Government Code section 8625 continues to be in effect; and

WHEREAS, State and local health officials have imposed and recommended social distancing measures for the protection of public health and safety in response to COVID-19; and

WHEREAS, on November 15, 2021, the Health Officer of the County of Stanislaus reiterated her recommendation that increasing distance during meetings and indoor gatherings to six feet or more can help stop the spread” of COVID-19; and

WHEREAS, the Planning Commission shall conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, the Planning Commission of the City of Modesto does hereby resolve as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Current Conditions Authorize Teleconference Public Meetings of the Planning Commission. Based on the California Governor’s continued declaration of a State of Emergency and the Stanislaus County Public Health Officer’s recommendation to continue teleconferencing or social distancing during public meetings, the Planning Commission finds that the conditions exist pursuant to Government Code section 54953(e)(1) to allow the Planning Commission to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

Section 3. Authorize the Planning Commission to Conduct Teleconference Meetings. The Planning Commission is hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at the regular meeting of the Planning Commission, held on May 16, 2022, by Commissioner _____, who moved its adoption, which motion was seconded by Commissioner _____ and carried by the following vote:

Ayes:
Noes:
Absent:
Recused:

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

Steve Mitchell, Secretary

5048880.1



CITY OF MODESTO
**PLANNING COMMISSION &
FINANCE COMMITTEE AGENDA
REPORT**

DATE OF MEETING:

May 16, 2022

Date: April 27, 2022

TO: Planning Commission & Finance Committee Members
FROM: Joseph P. Lopez, City Manager
SUBJECT: Fiscal Year 2022-23 Capital Improvement Program
CONTACT: Steve Christensen, Budget Manager, schristensen@modestogov.com,
209-577-5390

DESCRIPTION:

That the Planning Commission consider adopting a resolution finding that all new and active projects within the Capital Improvement Program (CIP) budget for Fiscal Year (FY) 2022-23 are in conformance with the Modesto Urban Area General Plan and that the Finance Committee recommend to City Council approval of the FY 2022-23 CIP Budget. (Funding Source: Various Funds)

STRATEGIC PLAN ELEMENT:

This item is in alignment with the Modesto City Council Strategic Commitment - Effective, Responsive and Transparent Government.

BACKGROUND/DISCUSSION:

The City of Modesto Capital Improvement Program (CIP) is a five-year program (starting in Fiscal Year 2022/23 and ending in Fiscal Year 2026/27). The CIP strives to reflect the goals and policies established by the General Plan by systematically planning, scheduling, managing, monitoring and financing capital projects to ensure cost-effectiveness and conformity with established policies and adopted Specific Plans. The CIP guides the funding and construction of all public improvements constructed by the City, including roads, wastewater treatment facilities and lines, water lines and parks. The CIP reflects a balance between capital replacement projects that repair, replace or enhance existing facilities, equipment or infrastructure and capital facility projects that significantly expand or add to the city's existing fixed assets. The capital needs for the City, far exceed the amount of available (and anticipated) revenue. Attention is given to utilize available resources and grants in a manner that legitimately maximizes the City's capacity to complete capital improvements in the CIP.

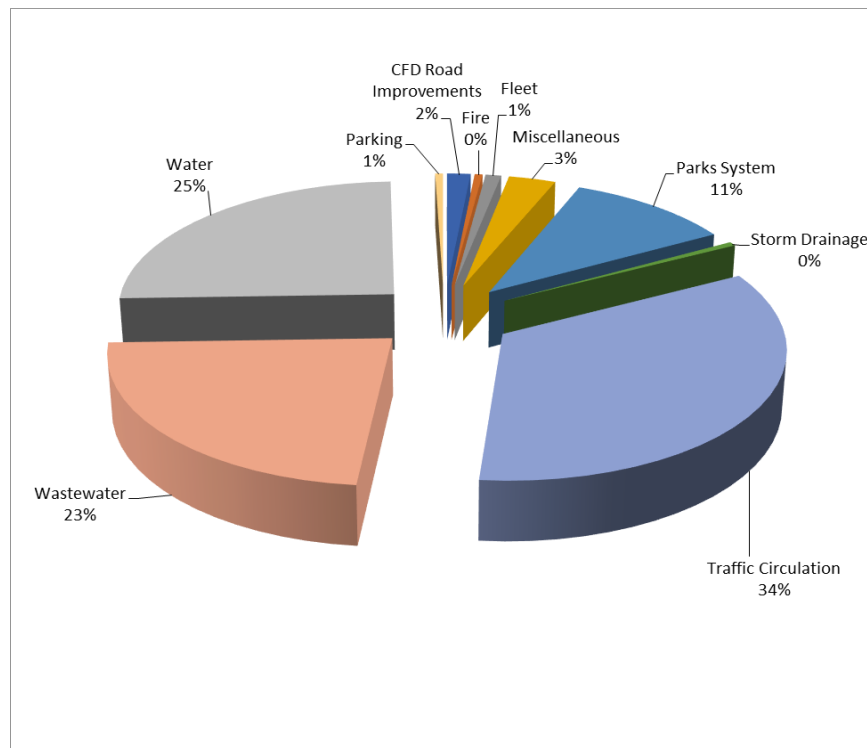
State law (Government Code Section 65401) requires the City planning agency (Planning Commission) to review and report on proposed CIP projects for conformity with the General Plan. The CIP strives to reflect the goals and policies established by the General Plan by systematically planning, scheduling, managing, monitoring and financing capital projects to ensure cost-effectiveness and conformity with established policies and adopted Specific Plans.

FISCAL IMPACT:

The Capital Improvement Program (CIP) budget for FY 2022-23 includes funding from a variety of funding sources. This information is provided in the detail pages of the CIP Budget document as part of this report.

There are 196 projects in the City’s Capital Improvement Program, primarily in the project areas of traffic circulation, wastewater, and water.

Percentage of Total Projects



Of these 196 projects, 23 are classified as new projects and increase the FY 2022-23 CIP budget by \$32.5 million. The chart below breaks out this information by category of project:

New or Future Projects Breakdown

	# of New Projects	FY 2022-2023 Budget
Capital Grants - CIP Projects-3140	5	\$ 16,973,359.00
Capital Grants - Streets CIP Projects-3160	6	\$ 3,805,575.00
Village One CFD Fund-3200	1	\$ 58,000.00
Measure L - Capital Projects-3300	2	\$ 1,811,500.00
Parks and Air Quality Capital Facility Fees Fund-3432	1	\$ 765,000.00
Water Fund - CIP Projects-4180	3	\$ 2,584,087.00
Sewer Operations Fund-4210	3	\$ 5,870,000.00
Fleet Management Fund-5400	1	\$ 570,000.00
JPA - TRRP Special Revenue Fund - CIP-6710	1	\$ 150,000.00
Grand Total	23	\$ 32,587,521.00

CEQA/NEPA REQUIREMENTS:

The determination of whether or not the proposed Fiscal Year 2022-2023 CIP is consistent with the Modesto Urban General Plan is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question – a determination as to the General Plan consistency – may have a significant effect on the environment.

RECOMMENDED COMMITTEE ACTION:

Consider adopting a resolution of the Planning Commission of the City of Modesto finding the Fiscal Year 2022-23 Capital Improvement Program in conformance with the Modesto Urban Area General Plan Pursuant to Government Code Section 65401.

Motion by the Finance Committee accepting the Fiscal Year 2022-23 Capital Improvement Program and forwarding to the City Council for approval.

Approved by:

Joseph P. Lopez, City Manager

Attachments:

1. Resolution

PLANNING COMMISSION
RESOLUTION NO. 2022-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MODESTO FINDING THE FISCAL YEAR 2022-2023 CAPITAL IMPROVEMENT PROGRAM IN CONFORMANCE WITH THE MODESTO URBAN AREA GENERAL PLAN PURSUANT TO SECTION 65401 OF THE GOVERNMENT CODE (CITY OF MODESTO)

WHEREAS, each year the Planning Commission must review all capital projects that will be planned, initiated or constructed during the ensuing fiscal year for conformity with the General Plan as required by State Planning and Zoning Law (Government Code Section 65401); and

WHEREAS, the Planning Commission has been furnished a copy of and reviewed the Draft 2022-2023 Capital Improvement Program (CIP), which includes all capital projects to be planned, initiated or constructed during the 2022-2023 fiscal year for conformity with the General Plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 16, 2022 at which it considered the proposed CIP, the General Plan, staff reports, oral and written, and the testimony and evidence of all those wishing to be heard; and

WHEREAS, the Planning Commission finds that the determination of whether the Draft 2022-2023 CIP is consistent with the Modesto Urban Area General Plan is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question - a determination as to General Plan consistency - may have a significant effect on the environment; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Modesto hereby determines that those projects in the Draft 2022-2023 CIP conform to and are consistent with the Modesto Urban Area General Plan.

The foregoing resolution was introduced at the special joint meeting of the Planning Commission and the Finance Committee held on May 16, 2022, by Commissioner , who moved its adoption, which motion was seconded by Commissioner , and carried by the following vote:

Ayes:
Noes:
Absent:
Recused:

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO

Original, signed copy on file in CEDD
Steve Mitchell, Secretary

EXHIBIT A
2022-2023 Capital Improvement Program

**On file with the City Clerk and the
Community & Economic Development Department, Planning Division**

Or Available online:

<https://www.modestogov.com/253/Capital-Improvement-Budgets>