

ORDINANCE NO. 3401-C.S.

AN ORDINANCE ADDING SECTION 10-2.234.2 TO ARTICLE 2 OF CHAPTER 2 OF TITLE 10, AMENDING SECTION 10-2.307 OF ARTICLE 3 OF CHAPTER 2 OF TITLE 10, AND ADDING ARTICLE 24.1 TO CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE PERTAINING TO MEDICAL MARIJUANA DISPENSARIES, AND REPEALING ORDINANCE NO. 3384-C.S.

SECTION 1. FINDINGS. The City Council of the City of Modesto hereby finds that in 1996, the voters of the State of California approved Proposition 215, codified as California Health and Safety Code Section 11362.5, et seq. Effective January 1, 2004, the State Legislature enacted SB 420 to clarify the scope of Proposition 215 and to allow cities to adopt and enforce rules and regulations consistent with SB 420. In the early months of 2005, the City of Modesto received several inquiries from individuals seeking to establish medical marijuana dispensaries in the City of Modesto. Two such businesses received City business licenses and began operating medical marijuana dispensaries at 1009 McHenry and 304 McHenry in the City's C-2 Zone. Shortly thereafter the Modesto City Council adopted an emergency interim ordinance pursuant to Government Code Section 65858 and Sections 716 and 722 of the Modesto City Charter prohibiting the establishment of medical marijuana dispensaries.

As set forth in the July 13, 2004, memorandum from Mark Siemens, Chief of Police of the City of Rocklin, it is apparent that from the experiences in other cities such as Oakland, Hayward, Fairfax, and Roseville that medical marijuana dispensaries in general create negative secondary effects in the community such as increased illegal drug activity and other crimes, blight, and a concentration of marijuana use in public places and contribute to the deterioration of neighborhoods in which they are located. The owner of one of two medical

law. Accordingly, the Council determines that it is appropriate to ban all uses in Modesto which are illegal under State or Federal law including without limitation medical marijuana dispensaries.

SECTION 2. AMENDMENT OF CODE. Section 10-2.234.2 is hereby added to Article 2 of Chapter 2 of Title 10 of the Modesto Municipal Code to read as follows:

10-2.234.2. MEDICAL MARIJUANA DISPENSARIES.

“Medical marijuana dispensary” or “dispensary” means any facility or location where medical marijuana is sold or offered for sale on a for profit basis by or to one or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5, et seq. A “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5, et seq. and the City of Modesto Municipal Code, including but not limited to the City’s zoning code.

SECTION 3. AMENDMENT OF CODE. Section 10-2.307 of Article 3 of Chapter 2 of Title 10 of the Modesto Municipal Code is hereby amended to read as follows:

10-2.307. LIMITATION OF LAND USE.

No building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as specifically allowed in the zone in which the building or land is located. Provided, however, it shall be unlawful for any person or entity to locate or operate in any zone in the City of Modesto all uses which are illegal under State or Federal law including without limitation medical marijuana dispensaries.

SECTION 4. AMENDMENT OF CODE. Article 24.1 is hereby added to Chapter 2 of Title 10 of the Modesto Municipal Code to read as follows:

ARTICLE 24.1. MEDICAL MARIJUANA DISPENSARIES

10-2.24.101. AMORTIZATION OF NONCONFORMING MEDICAL MARIJUANA DISPENSARIES.

Any use of real property existing on March 8, 2005, which does not conform to the provisions of the second sentence of Section 10-2.307, but which was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use which may be continued until July 14, 2006. (Six (6) months after the effective date of the ordinance codified in this article.) On or before such latter date, all such nonconforming uses shall be terminated unless an application for extension of time has been approved in accordance with the provisions of Section 10-2.24.102.

- (a) **Abandonment.** Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as a medical marijuana dispensary business shall result in a loss of legal nonconforming status of such use.
- (b) **Amortization – Annexed Property.** Any medical marijuana business which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of Section 10-2.307 shall be terminated within six (6) months of the date of annexation unless an application for extension of time has been approved in accordance with the provisions of Section 10-2.24.102.

10-2.24.102. EXTENSION OF TIME FOR TERMINATION OF NONCONFORMING USE.

The owner or operator of a nonconforming use as described in Section 10-2.24.101 may apply under the provisions of this section to the Community and Economic Development Director for an extension of time within which to terminate the nonconforming use.

- (a) **Time and Manner of Application.** An application for an extension of time within which to terminate a use made nonconforming by the provisions of Section 10-2.307, may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the Community and Economic

Development Director at least ninety (90) days but no more than one hundred eighty (180) days prior to the time established in Section 10-2.24.101 for termination of such use.

- (b) **Content of Application; Fees.** The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the City Council.
- (c) **Hearing Procedure.** The City Manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within forty-five (45) days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to Code of Civil Procedure Section 1094.6.
- (d) **Approval of Extension; Findings.** An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings or such other findings as are required by law:
 - (1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to March 8, 2005;
 - (2) The applicant will be unable to recoup said investment as of the date established for termination of the use; and
 - (3) The applicant has made good faith efforts to recoup the investment and to relocate the use to a location outside the City of Modesto.

SECTION 5. REPEAL. Upon the effective date of this ordinance, Ordinance No.

3384-C.S. is hereby repealed.

SECTION 6. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 7. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

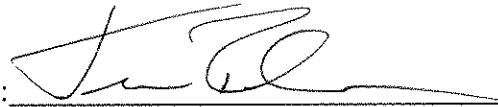
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2005, by Councilmember O'Bryant, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich
MICHAEL D. MILICH, City Attorney

Ord. No. 3401-C.S.

FINAL ADOPTION CLAUSE

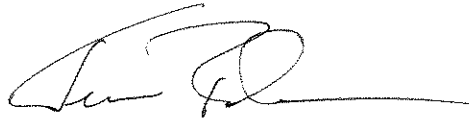
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of December, 2005, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Jackman, Marsh

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN ZAHR City Clerk

Effective Date: January 13, 2006

ORDINANCE NO. 3402-C.S.

**AN ORDINANCE AMENDING SECTION 2 OF
ORDINANCE NO. 1919-C.S. ENTITLED "AN ORDINANCE
AMENDING SECTION MAP 25-3-8 OF THE ZONING MAP
OF THE CITY OF MODESTO, PREZONING CERTAIN
PROPERTY LOCATED THEREON. (JOAQUIN
CONSTRUCTION)" (LLOYD VARGAS)**

SECTION 1. AMENDMENT OF ORDINANCE NO. 1919-C.S. Section 2 of Ordinance No. 1919-C.S., is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(255) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. A maximum of 81 zero lot line patio homes.
2. Recreation room, swimming pool, and R-V parking area."

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.


The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY, Interim City Attorney

Ord. No. 3402-C.S.

FINAL ADOPTION CLAUSE

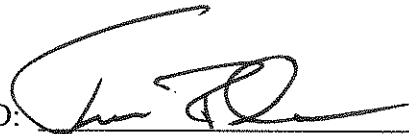
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN ZAHR, City Clerk

Effective Date: February 24, 2006

ORDINANCE NO. 3403-C.S.

AN ORDINANCE ADDING SECTION 4-2.35 TO CHAPTER 2 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO SOLICITATION PERMITS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 4-2.35 is hereby added to Chapter 2 of Title 4 of the Modesto Municipal Code to read as follows:

4-2.35. EXCEPTION-PERMIT.

Any person or group may engage in solicitation activities otherwise prohibited by this Chapter under the following conditions and restrictions:

- (a) A permit is secured in advance of the solicitation activity from the Modesto Police Department.
- (b) All restrictions regarding the prohibition of aggressive begging prohibited or restricted by Section 4-2.33 shall remain applicable.
- (c) The Police Chief, or his or her designee, has determined that the solicitation will be conducted in a manner which will not unduly endanger public safety. In this regard, the Police Chief, or his or her designee, may impose such reasonable restrictions on the manner in which the activity is conducted and the time and location of such solicitation as may be necessary to ensure the public's safety.
- (d) Each individual or group shall be limited to one (1) permit during any twelve (12) month period.
- (e) Any permit issued pursuant to this section shall be limited to one (1) twenty-four (24) hour period and the permit shall state on its face the beginning and ending times and any other condition imposed. As a condition of the permit, the permittee shall obtain insurance in a form acceptable to City, listing the City of Modesto as an additional insured and the permittee shall indemnify the City against any and all claims arising directly or indirectly from the permittee's activity/conduct. The permittee's obligation to indemnify the City is not contingent on the permittee obtaining the insurance required by this section.

- (f) Every individual person to whom a permit is issued shall have in their possession at all times during the period of solicitation, a copy of the permit. When a permit is issued to a group or organization and the solicitation will be conducted by multiple persons, the Police Chief, or his or her designee, may administratively implement such policies and procedures necessary to easily identify those persons who are authorized to conduct solicitation activity pursuant to the permit.
- (g) Each applicant for a permit shall submit to the Police Chief, or his or her designee, at least ten (10) days before the date of the proposed solicitation; an application for a permit on forms prescribed by the Police Chief. At the time of submitting its application, each individual or group shall pay a nominal processing fee of ten dollars (\$10.00).
- (h) A permit may be denied to any person who has been convicted of an offense involving fraud, embezzlement or similar crimes. If the applicant is a group or organization, the permit may be denied if the principal financial officer of the group or organization has been convicted of such crimes.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Richard R. Rudnansky
RICHARD R. RUDNANSKY, Interim City Attorney

Ord. No. 3402-C.S.

FINAL ADOPTION CLAUSE

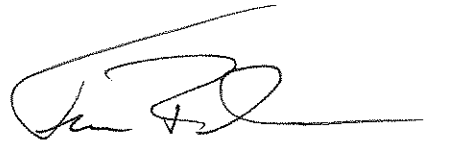
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN ZAHR, City Clerk

Effective Date: February 24, 2006

ORDINANCE NO. 3404-C.S.

**AN ORDINANCE AMENDING SECTION 8-3.102 OF
ARTICLE 1 OF CHAPTER 3 OF TITLE 8 OF THE
MODESTO MUNICIPAL CODE RELATING TO CITY
CONTRACTS - CONTRACTING AUTHORITY.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 8-3.102 of Article 1 of

Chapter 3 of Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

8-3.102. CONTRACTING AUTHORITY.

The City Manager may approve and authorize all contracts and purchase orders involving an expenditure of City funds in the total amount of fifty thousand dollars (\$50,000.00) or less. Except as noted below, no contract involving an expenditure in excess of fifty thousand dollars (\$50,000.00) may be authorized, approved or executed without City Council approval. The fifty thousand dollars (\$50,000.00) limit set forth in the preceding sentences does not apply to the following:

- (a) Contracts for public works projects consisting of the improvement or modification of traffic signals or signal systems including those street improvements which are incidental to or related to the improvement or modification of the traffic signal. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of two hundred fifty thousand dollars (\$250,000.00) or less.
- (b) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation or modification of any facilities funded by a Mello-Roos Community Facilities District and involving an expenditure of District Facility Taxes in the amount of three million dollars (\$3,000,000.00) or less. The District Administrator may approve and authorize all contracts for such projects.
- (c) Contracts for public works projects consisting of the maintenance, repair, replacement, and improvement of existing water lines. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.

Ordinance 3404-C.S.
Effective: April 6, 2006

- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
- (e) Contracts for public works projects consisting of repairs determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects in the amount of two hundred thousand dollars (\$200,000.00) or less. Within ten (10) days of the authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.
- (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than three hundred thousand dollars (\$300,000.00) in City funds.
- (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
- (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's Institutional Network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of four million two hundred thousand dollars (\$4,200,000.00) or less.

- (i) Contracts for public works projects consisting of those improvements to the South Modesto water system identified in that certain technical memorandum prepared by West Yost and Associates dated October 17, 2005, as amended on November 7, 2005, for the benefit of the Galas Brothers Unit II Project bounded by Hatch Road, Estrella Way, Ironside Drive, Salazar Circle and Monticello Lane in the City of Modesto and any incidental work thereto. The City Manager may approve and authorize all contracts for this project involving a total expenditure of City funds not to exceed two million dollars (\$2,000,000) or less.
- (j) Contracts for public works contracts consisting of the purchase, installation and replacement of water meters including an automated water meter reading (AMR) system and infrastructure work in conjunction with the system-wide water metering program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of five million dollars (\$5,000,000) or less annually.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of article 3 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2006, by Councilmember Dunbar, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, Keating, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



JIM RIDENOUR, Mayor

ATTEST:

By Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Richard R. Rudmanský
RICHARD R. RUDMANSKY
Interim City Attorney

Ord. No. 3404-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 7th day of March, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST: 

JEAN MORRIS, City Clerk

Effective Date: (30 days after final adoption)

Ordinance 3404-C.S.
Effective: April 6, 2006

ORDINANCE NO. 3405-C.S.

**AN ORDINANCE AMENDING SECTION MAP 5-4-9 OF
THE ZONING MAP OF THE CITY OF MODESTO,
RECLASSIFYING CERTAIN PROPERTY LOCATED
THEREON. (SPORTSMEN OF STANISLAUS COUNTY).**

WHEREAS, a verified application for an amendment to Section 5-4-9 of the Zoning Map was filed by Sportsmen of Stanislaus County on October 8, 2005, to rezone from Planned Development Zone, P-D(37), to Low Density Residential Zone, R-1, property located at 819 Sunset Avenue (Sportsmen of Stanislaus County), and

WHEREAS, after a public hearing held on February 27, 2006, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 2006-13, adopted on February 27, 2006, the Planning Commission recommended to the Council that the application of Sportsmen of Stanislaus County to amend Section 5-4-9 of the Zoning Map to reclassify the hereinafter described property from Planned Development Zone, P-D(37), to Low Density Residential Zone, R-1, be approved,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. After a public hearing held on March 28, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the General Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the following reasons:

1. The proposed amendment and rezoning is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Mixed Use, (MU), designation for the site.
2. That the proposed Planned Development Zone amendment and the rezone will be compatible with the surrounding land uses.

SECTION 2. ZONING CHANGE. Section 5-4-9 of the Zoning Map is hereby amended to reclassify the following described property from Planned Development Zone, P-D(37), to Low-Density Residential Zone, R-1:

P-D(37) to R-1

All that certain real property in the City of Modesto, County of Stanislaus, State of California, described as follows:

Lot 14 of Rouse Colony, according to the Official Map thereof, filed in the office of the recorder of Stanislaus County, California, on January 10, 1911 in Volume 5 of Maps, at Page 24.

Also excepting the Southern 60.00 feet of Lot 14.

SECTION 3. ZONING MAP. Section 5-4-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating , was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

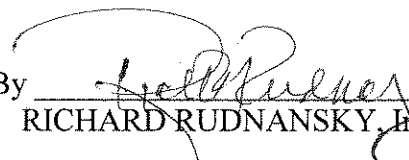
APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

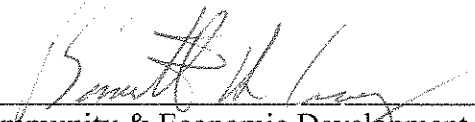
By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD RUDNANSKY, Interim City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community & Economic Development
Department, Planning Division

Ord. No. 3405-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of April, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: May 4, 2006

Ordinance 3405-C.S.
Effective: May 4, 2006

ORDINANCE NO. 3406-C.S.

**AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER 4
OF TITLE 2 OF THE MODESTO MUNICIPAL CODE
RELATING TO POLICY FOR EXPENSE REIMBURSEMENT
OF THE CITY COUNCIL AND COUNCIL APPOINTED
MEMBERS OF CITY COMMISSIONS AND COMMITTEES.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Article 4 of Chapter 4 of Title 2 of
the Modesto Municipal Code is hereby amended to read as follows:

**ARTICLE 4. POLICY FOR EXPENSE REIMBURSEMENT OF THE
CITY COUNCIL AND COUNCIL APPOINTED MEMBERS OF CITY
COMMISSIONS AND COMMITTEES.**

2-4.401. RECITALS.

- (a) Assembly Bill 1234 imposes new restrictions on compensation and the reimbursement of expenses for members of local legislative bodies.
- (b) Government Code Sections 54950 et seq., also known as the Ralph M. Brown Act, defines "members of a legislative body" to include the City Council and members of any Commissions or advisory bodies created by the Council.
- (c) The City has twenty (20) standing Boards, Commissions, and advisory bodies including the City Council, Airport Advisory Committee, Board of Building Appeals, Board of Zoning Adjustment, Charter Review Committee, Citizens Advisory Committee on Recycling, Citizens Housing and Community Development Committee, Citizens Redevelopment Advisory Committee, Community Qualities Forum, Culture Commission, Disabled Access Appeals Board, Downtown Improvement District Advisory Board, Equal Opportunity/Disability Committee, Golf Courses Advisory Committee, Housing Rehabilitation Loan Committee, Human Relations Commission, Landmark Preservation Commission, Local Cable Programming Committee, Planning Commission, and Tuolumne River Regional Park Citizens Advisory Committee.
- (d) Assembly Bill 1234 requires cities, towns, and other public agencies to adopt a written policy, in a public meeting, that lists the types of occurrences that qualify a member of a legislative body to receive

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reimbursements for expenses relating to travel, meals, lodging, and other expenses.

- (e) Members of the City's legislative bodies are currently reimbursed according to the City's expense policy for members of the City Council as adopted from time to time by Resolution.
- (f) Assembly Bill 1234 requires the adoption of a more restrictive reimbursement policy with respect to members of the City's legislative bodies.
- (g) Assembly Bill 1234 takes effect on January 1, 2006.

All officers and employees of the City shall be entitled to reimbursement for expenses incurred for transportation, meals, lodging and incidentals necessarily incurred in the performance of their official duties in addition to such compensation as is otherwise provided. In case of any doubt as to the necessity for the incurring of any expense, the City Manager shall determine whether such necessity existed and may allow, reject or modify any claim or item or items thereof.

2-4.402. FINDINGS.

- (a) The City takes its stewardship over the use of its limited public resources seriously.
- (b) Public resources should only be used when there is a substantial benefit to the City.
- (c) Such benefits include:
 - (1) The opportunity to discuss the community's concerns with state and federal officials;
 - (2) Participating in regional, state and national organizations whose activities affect the City;
 - (3) Attending educational seminars designed to improve officials' skill and information levels; and
 - (4) Promoting public service and morale by recognizing such service.
- (d) Legislative and other regional, state and federal agency business is frequently conducted over meals; sharing a meal with regional, state

and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and each meal expenditure must comply with the limits and reporting requirements of local, state and federal law.

- (e) In accordance with the requirements of Government Code Sections 53232.2 and 53233.3 (Assembly Bill 1234), this policy provides guidance to elected and appointed officials on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured.
- (f) This policy supplements the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources.
- (g) This policy also supplements the definition of necessary and reasonable expenses for purposes of federal and state income tax laws.
- (h) This policy also applies to any charges made to a City credit card or cash advance.

2-4.403. AUTHORIZED EXPENSES.

- (a) City funds, equipment, supplies including letterhead, titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this policy are met:
 - (1) Communicating with representatives of regional, state and national government on City adopted policy positions;
 - (2) Attending educational seminars designed to improve officials' skill and information levels;
 - (3) Participating in regional, state and national organizations whose activities affect the City's interests;
 - (4) Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
 - (5) Attending City events; and

- (6) Implementing a City-approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member.

All other expenditures require prior approval by the City governing body. In addition, expenses for international travel requires prior governing body approval.

- (b) Examples of personal expenses that the City will not reimburse include, but are not limited to:
 - (1) The personal portion of any trip;
 - (2) Political or charitable contributions or events;
 - (3) Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children- or pet-related expenses;
 - (4) Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;
 - (5) Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
 - (6) Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Manager before the expense is incurred.

2-4.404. MEETING STIPEND.

- (a) In accordance with Health & Safety Code Section 33114, each of the City's Redevelopment Agency board shall receive compensation ("meeting stipend") in the amount of thirty dollars (\$30.00) per member for each meeting of the agency attended. No member shall receive compensation for attending more than four (4) meetings of the agency during any calendar month. Such compensation is in addition to any reimbursement for actual and necessary expenses incurred in the discharge of their duties, including meals, lodging, travel and expenses consistent with this ordinance.

- (b) To be entitled to a meeting stipend under this policy, the event in question must constitute one of the following:
 - (1) A meeting of the Agency within the meaning of Government Code Section 54952.2(a);
 - (2) A meeting of a district committee within the meaning of Government Code Section 54952(b);
 - (3) An advisory body meeting within the meaning of Government Code Section 54952(b);
 - (4) A conference or organized educational activity conducted in compliance with Government Code Section 54952.2(c), including ethics training required by Government Code Sections 53234 and following.
 - (5) A meeting of any multi-jurisdictional governmental body on which the district director serves as the districts designated representative.
 - (6) Any meeting attended or service provided on a given day at the formal request of the Agency and for which the Agency approves payment of a meeting stipend.
- (c) The number of days for which a Agency board member receives a meeting stipend will not exceed the aggregate limits established by state law.

2-4.405. COST CONTROL.

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

No charges will be reimbursed without a receipt.

- (a) Transportation. The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Government and group rates must be used when available.

(1) Airfare. Airfares that are equal or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities (www.cacities.org/travel) and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy.

(2) Automobile. Automobile mileage is reimbursed at the Internal Revenue Service rate in effect at the time of travel (<http://www.irs.gov/publications/p463/ch04.html#d0e3119>). The reimbursement rate at the time of the adoption of this ordinance is 44.5 cents per mile. The reimbursement rate is designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.

The City does not provide any insurance for private automobiles used on City business. The owner of an automobile is responsible for the personal liability and property damage insurance when the vehicle is used on City business. Officials using their own vehicle to conduct City business are encouraged to discuss the liability issues with their insurance carrier.

(3) Car Rental. Rental rates that are equal or less than those available through the State of California's website (<http://www.catravelmart.com/default.htm>) shall be considered the most economical and reasonable for purposes of reimbursement under this policy. When the rental of an automobile is authorized, insurance covering physical damage to the vehicle shall not be purchased.

(4) Taxis/Shuttles. Taxis or shuttles fares may be reimbursed, including a fifteen (15) percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

(b) Lodging. Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay.

(1) Conferences/Meetings. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in

question if such rates are available at the time of booking. If the group rate is not available, see next section.

(2) Other Lodging. Travelers must request government rates, when available. A listing of hotels offering government rates in different areas is available at <http://www.catravelsmart.com/lodguideframes.htm>. Lodging rates that are equal or less than government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.

If lodging rates exceed the government rate for the area, actual lodging costs may be reimbursed conditioned upon performance of a good faith effort evidenced by documentation (e.g., internet search or phone calls) that demonstrate an attempt to find median-priced lodging.

- (c) Meals. Meal expenses and associated gratuities will be reimbursed up to the regular federal IRS approved Maximum Meals & Incidental Expenses (M&IE) per diem rate established for the area of travel and in effect at the time said expenses are incurred with 75% of the M&IE paid for the first and last days of travel.

Reimbursement rate information by location may be found on the U.S. General Services Administration website at <http://www.gsa.gov> and clicking on the per diem link. If a location is not published, the M&IE reimbursement shall not exceed the standard continental United States (CONUS) rate approved by the IRS.

The City will not pay for alcohol/personal bar expenses or for meal expenses for third parties.

The City shall pay for dinners provided to City Council members prior to City Council meetings.

- (d) Telephone/Fax/Cellular. Officials will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which call minutes were made on City business. For cellular calls when the official has a particular number of minutes included in the official's plan, the official can identify the percentage of calls made on public business.
- (e) Internet. Officials will be reimbursed up to forty-five dollars (\$45.00) per calendar month, with appropriate documentation, for Internet service provider charges in order to enable e-mail and Internet

communication from their home residence or via PDA for official City-related business. When an official is outside the City boundaries and outside of range for PDA and it is necessary for the official to access e-mail and Internet communication for official City-related business, the official will be reimbursed up to fifteen dollars (\$15.00) per day, with appropriate documentation. Internet usage, which is eligible for City reimbursement, must comply with the City's policy on Internet usage.

- (f) Airport Parking. Long-term parking must be used for travel exceeding twenty-four (24) hours.
- (g) Other. Baggage handling fees of up to one dollars (\$1.00) per bag and gratuities of up to fifteen (15) percent will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.

2-4.406. CASH ADVANCES.

- (a) From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten (10) days prior to the need for the advance with the following information:
 - (1) The purpose of the expenditure(s);
 - (2) The benefits of such expenditure to the residents of the City;
 - (3) The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
 - (4) The dates of the expenditure(s).
- (b) Any unused advance must be returned to the City treasury within seven (7) days of the official's return, along with a City expense report and receipts documenting how the advance was used in compliance with this expense policy.
- (c) In the event the City Manager is uncertain as to whether a request complies with this policy, such individual must seek resolution from the City's governing board.

2-4.407. CREDIT CARD USE.

- (a) The City may issue credit cards to individual office holders. The policies and procedures governing the use of City credit cards, which are covered under a separate City policy, shall be followed.
- (b) City credit cards may not be used for personal expenses, even if the official subsequently reimburses the City.
- (c) Receipts documenting expenses incurred on City credit cards and compliance with said policy must be submitted within five (5) business days.

2-4.408. EXPENSE REPORT CONTENT AND SUBMISSION DEADLINE.

- (a) All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the City. This form shall include the following advisory:

All expenses reported on this form must comply with the City policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability.

- (b) Expense reports must document that the expense in question met the requirements of this policy. For example, if the meeting is with a legislator, the local agency official should explain what expenses were incurred, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
- (c) Officials must submit their expense reports within thirty (30) days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.
- (d) Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

2-4.409. AUDITS OF EXPENSE REPORTS.

All expenses are subject to verification that they comply with this policy.

2-4.410. REPORTS TO GOVERNING BOARD.

At the following City governing body meeting, each official shall briefly report orally or in writing on meetings attended at City expense. If multiple officials attended, a joint report may be made.

2-4.411. COMPLIANCE WITH LAWS.

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

2-4.412. VIOLATION OF THIS POLICY.

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: (a) loss of reimbursement privileges; (b) a demand for restitution to the City; (c) the City's reporting the expenses as income to the elected official to state and federal tax authorities; (d) civil penalties of up to one thousand dollars (\$1,000.00) per day and three (3) times the value of the resources used; and (e) prosecution for misuse of public resources.

2-4.413. SEVERABILITY.

If any part of this Ordinance or the application thereof to any person is held invalid, the remainder of the Ordinance and the application of such provisions to other persons shall not be affected thereby.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

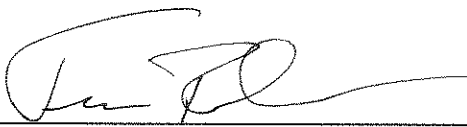
SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March, 2006, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh


APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

Ord. No. 3406-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of April, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: May 4, 2006

Ordinance 3406-C.S.
Effective: May 4, 2006

ORDINANCE NO. 3407-C.S.

AN ORDINANCE AMENDING CHAPTER 15 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO OUTDOOR DINING IN THE PUBLIC RIGHT-OF-WAY PERMITTED.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 15 of Title 4 of the Modesto Municipal Code is hereby amended to read as follows:

CHAPTER 15. OUTDOOR DINING IN THE PUBLIC RIGHT-OF-WAY

ARTICLE 1. OUTDOOR DINING ENCROACHMENT PERMIT REQUIRED.

4-15.101. OUTDOOR DINING DEFINED.

Outdoor dining is defined as a permitted area within the public right-of-way consisting of tables and chairs for the consumption of food or beverages in conjunction with the operation of bona fide food service establishment properly licensed for such service and which provides on-premises customer seating.

4-15.102. OUTDOOR DINING ENCROACHMENT PERMIT REQUIRED.

No owner or operator of a business establishment shall occupy any portion of a public sidewalk, court, plaza, alley, or street with tables and chairs for outdoor dining without first obtaining a revocable encroachment permit in accordance with the provisions of this article.

4-15.103. AUTHORITY TO ISSUE OUTDOOR DINING ENCROACHMENT PERMITS.

The Public Works Director, or his or her designated representative, is hereby authorized to issue outdoor dining encroachment permits to owners or operators of business establishments. The location and configuration of any outdoor dining area shall be subject to the approval of the Public Works Director who shall consider public safety issues unique to the pedestrian and vehicular needs of a specific location. The Public Works Director shall have the authority to deny any encroachment permit application if its issuance is determined to be detrimental to the public health, safety or general welfare. The decision of the Public Works Director may be appealed to the City Manager or to a designee of the City

3407-C.S.
Effective: May 25, 2006

Manager, pursuant to the provisions of Modesto Municipal Code Section 4-15.203(g). The decision of the City Manager or designated representative shall be final.

4-15.104. APPLICATION FOR OUTDOOR DINING ENCROACHMENT PERMIT.

- (a) An encroachment permit shall be required for all outdoor dining areas in the public right-of-way. An application shall be filed with the Public Works Department on a form provided by that department. Every owner or operator of a business establishment desiring to place tables and chairs in a public sidewalk, court, alley or street shall first submit an application for the issuance of an outdoor dining revocable encroachment permit to the Public Works Department.
- (b) The application shall be accompanied by a space-use plan which the location, number and arrangement of the tables and chairs to be used, the location of the entrance to the establishment, and the location of any existing sidewalk obstructions in the proposed area to be occupied by the tables and chairs. Trees and/or tree wells, traffic signs, planters, lamp posts, fire hydrants, parking meters, benches, barriers delimiting the dining area and all similar obstacles shall constitute obstructions.
- (c) Each application for an outdoor dining encroachment permit shall be submitted in accordance with the following requirements:
 - (1) Application Fee. A two hundred dollar (\$200.00) non-refundable application fee shall be submitted with each application. The application must be signed by the business owner. This fee includes costs for review of the application and insurance, as well as pre-inspection and post-inspection of the outdoor dining site. No application fee shall be assessed for existing permit holders unless a new/revised permit is required.
 - (2) Proof of Insurance. Each application shall be accompanied by proof of insurance, as set forth in Section 4-15.109 of this article.
 - (3) Business License. Applicant must submit with the applicant a copy of applicant's City of Modesto business license.
 - (4) Outdoor Dining Areas With Barriers. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a

physical barrier that meets the requirements of this Chapter and of the Alcoholic Beverage Control Board.

- (5) Barrier Removal Deposit. A two hundred fifty dollar (\$250.00) removal deposit shall be submitted at the time of application if a barrier is required. If, at the time of cessation of outdoor dining use and/or revocation of use permit, the barrier is removed by the business owner or other responsible party, this removal deposit will be refunded. The deposit will also be refunded if the encroachment use permit is denied. Existing permittees shall not be required to make the two hundred fifty dollars (\$250.00) removal deposit unless a new/revised permit is required.

4-15.105. ISSUANCE OF OUTDOOR DINING ENCROACHMENT PERMIT.

- (a) The Public Works Department will issue a permit if the following conforms to the Public Works Director's guidelines:
 - (1) Design of the outdoor dining area;
 - (2) Location of tables and chairs;
 - (3) Furniture style;
 - (4) Furniture materials;
 - (5) Lighting scheme;
 - (6) Use of accessories or fixtures (umbrellas, heaters, signage and planters); and
 - (7) Style and placement of barriers.
- (b) No permit shall be issued until the permit applicant has paid the required application fee associated with a one-time fee for the permit. The amount of the permit fee is in an amount as shall be set forth from time to time by resolution of the City Council.
- (c) No permit shall be issued until applicant has obtained the Fire Marshal's approval for the outdoor dining area.

- (d) The permittee shall display a copy of the permit within the business establishment in an area clearly visible.
- (e) Issuance of an outdoor dining encroachment permit shall not constitute a deed or grant of an easement by the City.

4-15.106. INDEMNIFICATION FOR USE OF PUBLIC PROPERTY.

The permittee shall indemnify, defend and hold harmless the City, its officials, officers, agents and employees from any and all claims, causes of action, losses, injuries or damages arising directly or indirectly from the negligent acts, errors or omissions of the permit holder, its officers, agents, employees or anyone rendering services on its behalf. This indemnity shall include all reasonable costs and attorney's fees incurred in defending any action covered by this section.

4-15.107. CONDITIONS AND RESTRICTIONS PERTAINING TO OUTDOOR DINING ENCROACHMENT PERMITS.

- (a) Maximum Allowable Fenced Width.

For sidewalks less than twelve (12) feet wide, fence width should not exceed five (5) feet.

For sidewalks twelve (12) feet or wider, fence width should not exceed six (6) feet.

- (b) Minimum Clear Path. The outdoor dining area shall leave a minimum of not less than five (5) consecutive feet of sidewalk width of clear continuous path measured from the curb line to ensure adequate space for pedestrian traffic on the adjacent sidewalk. The minimum width stated above must be free of all obstacles and obstructions for a clear path of travel. For the purpose of minimum clear path, traffic signs, trees and all similar obstacles shall constitute obstructions.

- (1) Responsibility. It is the responsibility of the permittee to keep this sidewalk pedestrian zone clear and unimpeded for pedestrian movement. The specific requirements for this minimum clear path are set out on a diagram available to the applicant from the Public Works Department.

- (c) Clear Zones. Outdoor dining areas may not intrude on pedestrian "clear zones" at corners and thus must be set back a minimum of six (6) feet from any crosswalk.

- (d) Curbs, Ramps and Driveways. The outdoor dining area must not interfere with curbs, ramps or driveways.
- (e) Building Access. No element of the outdoor dining area may interfere with access to any building including all paths of travel or exit.
- (f) Removable Fixtures in Dining Areas Without Barriers. Only removable fixtures are allowed in outdoor dining areas without barriers. When the sidewalk area is not in use for seating and service, all removable fixtures (i.e. chairs, planters, tables, etc.) shall be stored inside the restaurant premises. Removable fixtures shall not be allowed in the outdoor dining area more than sixty (60) minutes prior to business opening nor more than sixty (60) minutes following close of business.
- (g) Fixtures in Dining Areas with Barriers:
 - (1) Tables and chairs may remain in the outdoor dining area during non-business hours only if bolted or secured so as to prevent removal from the premises and to also ensure public safety.
 - (2) Upon closure of the outdoor dining area or the adjacent business, any and all items used to secure the tables and chairs (bolts, screws, etc.) shall be removed from the sidewalk and the sidewalk shall be repaired subject to the satisfaction of the Public Works Director.
- (h) Lighting. Where outdoor lighting occurs outside daylight hours, adequate lighting must be provided by the operator to ensure safety of pedestrians. Lighting shall be maintained in good working order.
- (i) Litter and Debris. The outdoor dining area must remain clear of litter, food scraps, soiled utensils and dishes at all times. The permittee shall maintain the tables and chairs in the permitted outdoor dining area in a clean condition at all times. No debris shall be swept, washed or blown into the sidewalk, gutter or street.
- (j) Code Compliance. Outdoor dining areas must conform to and comply with all relevant regulations in this Code and all applicable building laws including State laws and regulations.
- (k) Limitations. Service in the outdoor dining area shall be limited to persons seated at tables.
- (l) Barriers. Fencing and other barriers shall not be attached to the building.

- (m) Permit not Deed or Easement. Permission to encroach upon a portion of a public sidewalk with tables and chairs granted through issuance of an outdoor dining encroachment permit under this chapter shall not constitute a deed or grant of an easement by the City.

- (n) Exceptions. All businesses with a valid outdoor dining permit at the time of Council's final adoption of this ordinance are exempt from the requirements of Sections 4-15.107(a), (b), (c) and (d), but shall maintain existing permitted conditions including, but not limited to, the height, length, width, and placement of presently installed barriers. Said business will remain exempt until:
 - (1) the business changes ownership due to the sale of, or foreclosure proceedings against, the business;
 - (2) the business ceases to do business within the City of Modesto;
 - (3) any process, procedure or proceeding, judicial or otherwise, causes or results in either a total or partial change in ownership; or
 - (4) the death of the permittee(s).

4-15.108. INSURANCE.

- (a) Each outdoor dining permittee shall provide the Public Works Director with evidence of insurance coverage as approved by the City's Risk Manager. The permittee shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000) covering the property and the permitted area on which the outdoor dining will be located.
- (b) The City of Modesto, its elected and appointed officials, officers, agents and employees shall be named as additional insureds on this policy. An endorsement must be issued as part of the policy reflecting compliance with this requirement.
- (c) A certificate of insurance shall contain provisions prohibiting cancellations, modifications, or lapse without thirty (30) days prior written notice to City. Said insurance shall apply as primary insurance and shall stipulate that any insurance maintained by the City shall be in excess of the permit holder's insurance and shall not contribute with it.

- (d) All new and existing permits must comply with these insurance requirements.

4-15.109. OUTDOOR DINING ENCROACHMENT PERMIT ANNUAL RENEWAL.

Effective July 1, 2006, and on each July 1 thereafter, all existing and new outdoor dining encroachment permits shall be subject to annual renewal. This annual renewal requirement applies to both permits in existence prior to this ordinance, as well as to new permits issued after the date of this ordinance.

Annual Renewal Fee. An annual, non-refundable renewal fee shall be assessed for the costs of reviewing compliance, maintenance and insurance. This fee will be prorated for permits issued after the date of this ordinance.

- (a) Dining Area of Four Hundred (400) Square Feet or Less. Outdoor dining areas with a total area of four hundred (400) square feet or less shall be assessed an annual non-refundable renewal fee of one hundred dollars (\$100.00) for the costs reviewing compliance, maintenance and insurance.
- (b) Dining Area of more than Four Hundred (400) Square Feet. Outdoor dining areas with a total area of more than four hundred (400) square feet shall be assessed an annual non-refundable renewal fee of one hundred dollars (\$100.00) for the first four hundred (400) square feet of dining area for the costs of reviewing compliance, maintenance and insurance. For each square foot of dining area above four hundred (400) square feet, and three dollars (\$3.00) per square foot per year will be assessed. This fee ensures judicious need and use of encroachment area.

ARTICLE 2. ALCOHOLIC BEVERAGE RESTRICTIONS APPLICABLE TO OUTDOOR DINING AREAS.

4-15.201. ALCOHOLIC BEVERAGE RESTRICTIONS.

The service of alcoholic beverages shall be restricted solely to on-premises consumption by customers within the outdoor dining area. Each of the following standards apply to outdoor dining areas which provide alcoholic beverage service:

- (a) Barriers. The outdoor dining area must be clearly and physically separated from pedestrian traffic. All barriers, railings or fences placed around the dining area, whether moveable, permanent, affixed or contiguous to the sidewalk, shall be in place during hours of operation to clearly define the area. The spacing, if any, between barriers, railings, fences or planters

must prevent pedestrian traffic through them. Landscaping can be either in planters or planted in the ground. Fencing and other barriers must not be attached to the building. In order to maximize visual access and pedestrian safety, the height of the railing, barrier or planter, with its planted material, shall not be less than four (4) feet;

- (b) Written Notice. The business operator shall post a written notice to customers that drinking or carrying an open container of alcohol is prohibited outside the outdoor dining area;
- (c) State Licensure. The outdoor dining area operation must be duly licensed by the State Department of Alcoholic Beverage Control. The City of Modesto requirements and restrictions for the service of alcoholic beverages in outdoor dining areas shall not be less than those required by the State Department of Alcoholic Beverage Control; and
- (d) Exits. Any and all exits from the bona fide food service establishment to be used for the service of alcoholic beverages to the outdoor dining area must be included in the outdoor dining encroachment permit issued pursuant to this chapter.
- (e) All alcoholic beverages served shall accompany or be served in conjunction with a food order from the dining establishment's menu. A food order does not include either complimentary or purchased snacks such as popcorn, potato chips, pretzels, nuts, etc.

ARTICLE 3. SUSPENSION, REVOCATION AND PENALTIES.

4-15.301. SUSPENSION/REVOCATION.

An outdoor dining encroachment permit shall be subject to suspension or revocation by the Public Works Director. A permit may be suspended or revoked if any of the permit requirements or terms and conditions contained in this chapter are violated. A permit may be suspended or revoked if necessary to preserve and protect the health and welfare of the public.

4-15.302. TERMINATION OF INSURANCE.

The outdoor dining encroachment permit shall be automatically suspended upon the termination of the insurance required under Section 4-15.109 of this chapter. Even upon termination of the insurance required under Section 4-15.109, permittee shall indemnify the City of Modesto as set forth in Section 4-15.107 of this Code.

4-15.303. REPORT TO ABC.

The City of Modesto will notify the State Department of Alcoholic Beverage Control of any suspension or revocation of an outdoor dining encroachment permit granted under this chapter.

4-15.304. SUSPENSION LIMIT.

Permits may be suspended for a period up to twelve (12) months depending upon the history and severity of violations.

4-15.305. NOTICE OF REVOCATION OR SUSPENSION.

Prior to revoking or suspending an outdoor dining permit, the Public Works Director, or designated representative, will serve the permittee with a written notice stating the proposed grounds for the suspension or revocation and the effective date of the suspension or revocation. This notice will be sent by certified mail, return receipt requested, and/or hand delivered to the permittee or a managing employee. The notice shall provide the permit holder with information on the appeal process.

4-15.306. APPEAL OF REVOCATION OR SUSPENSION.

A written notice requesting an appeal to the City Manager shall be filed with the City Clerk not later than five (5) days after receipt of the notice of proposed suspension or revocation. Failure to file a notice of appeal within the five (5) day period waives the permittee's right to appeal and the Public Work Director's proposal will become final. If a timely notice of appeal is filed, the City Manager, or a designated representative, will set the matter for hearing no later than ten (10) days after receipt of the appeal notice by the City Clerk. The permittee may appeal the decision of the City Manager in writing to the City Council as set forth in Chapter 4 of Title 1 of the Modesto Municipal Code.

4-15.307. PENALTIES FOR VIOLATIONS.

- (a) Citations. The City of Modesto may issue administrative citations for violations of this chapter pursuant to Sections 1-6.401 through 1-6.509 of the Modesto Municipal Code.
- (b) Appeals. A permittee may appeal any citation issued pursuant to the procedure set forth in Section 1-6.405 of the Modesto Municipal Code. The appeal hearing will be set and conducted as set forth in Section 1-6.501 et seq. of the Modesto Municipal Code.

- (c) Administrative Remedies. The City of Modesto may utilize any of the administrative remedies set forth in Chapter 6 of Title 1 of the Modesto Municipal Code as enforcement remedies for violation of this chapter.

ARTICLE 4. FAILURE TO OBTAIN ENCROACHMENT PERMIT.

4-15.401. REMOVAL OF TABLES AND CHAIRS.

- (a) Any tables and chairs placed in or upon the public sidewalk or right-of-way without a validly issued outdoor dining encroachment permit may be seized and removed pursuant to this section. Locations without permits must obtain a permit immediately or remove tables until compliance occurs.
- (b) The owner or operator of the business establishment shall be given ten (10) business days in which to remedy the violation. If the responsible party does not apply for and obtain an outdoor dining encroachment permit within the time prescribed, the City may seize and remove the tables and chairs.
- (c) Any other provisions of this chapter notwithstanding, if tables and chairs are placed in the public right-of-way and pose an immediate and serious danger to persons or property, the City may seize such tables and chairs without prior notice to the responsible party if it is impractical to remedy the danger by moving the tables and chairs to another point on the sidewalk or public right-of-way. The responsible party shall be notified promptly of such seizure.
- (d) All tables and chairs seized pursuant to this section shall be retained by the City and may be recovered as provided herein.
- (e) The person responsible for such tables and chairs shall pay an impound fee covering the actual costs of transporting and storing the outdoor dining tables and chairs before the seized property is returned.
- (f) If the responsible party contends the seizure was not authorized by this chapter, then an appeal hearing pursuant to Modesto Municipal Code Section 1-6.501 et seq. will be held. The decision of the hearing officer shall be final.

ARTICLE 5. BUSINESS CLOSURE, BUSINESS TRANSFER AND OTHER OPERATIONAL CHANGES IMPACTING THE OUTDOOR DINING ENCROACHMENT PERMIT.

4-15.501. BUSINESS CLOSURE.

When the business possessing an outdoor dining encroachment permit closes, the permittee must provide the City the following within the timelines designated.

- (a) Written Notification. Permittees must provide the City with written notification of the business closure within thirty (30) days prior to the anticipated closure date. Said notification shall include a schedule for removal of barriers and other outdoor dining fixtures.
- (b) Removal of Barriers and Fixtures. Permittees shall have thirty (30) days from the date of business closure to remove all barriers and other outdoor dining fixtures. Permittees shall notify the City for final inspection once all barriers and fixtures are removed. Failure to remove barriers within the thirty (30) day period and/or failure to maintain insurance, may result in the City taking action to remove the barriers and fixtures. Expenses incurred shall be billable to the permit holder and/or deducted from the deposit.
- (c) Maintenance of Insurance. Permittees shall continue to maintain valid insurance until such time as all barriers and outdoor dining fixtures are removed and the City has performed a site inspection.
- (d) Removal Deposit Refund. Once notified all barriers and outdoor dining fixtures are removed, the City will perform a final inspection. If said removal occurs within the thirty (30) day timeline allowed pursuant to Section 4-15.206, the permittee will be refunded the removal deposit, if any, provided for in Section 4-15.104 of this article.

4-15.502. TRANSFER OF OWNERSHIP.

When a business possessing an outdoor dining encroachment permit is transferred from one owner to another, the permittee must provide the City with the following within the timelines established.

- (a) Written Notification. Permittees must provide the City with written notification of a business transfer within forty-five (45) days prior to the anticipated transfer date.
- (b) Maintenance of Insurance. Permittees shall continue to maintain valid insurance during the transition time from one owner to the next.
- (c) Permit Not Transferable. The outdoor dining encroachment permit is not transferable. The new business owner shall be responsible for applying for

and obtaining a new outdoor dining encroachment permit in accordance with the provisions of Article 1 of this chapter.

4-15.503. OTHER OPERATIONAL CHANGES.

When the business possessing an outdoor dining encroachment permit makes operational changes impacting the permit, including but not limited to remodeling, expanding, changing hours of operation, obtaining a license to serve alcoholic beverages, etc., the permittee must provide the City with the following within the timelines established.

- (a) Written Notification. Permittees must provide the City with written notification of operational changes impacting the outdoor dining encroachment permit. Said notification must be made as soon as practicable, but not less than thirty (30) days prior to commencement of the operational change.
- (b) Maintenance of Insurance. Permittees shall continue to maintain valid insurance during the period when operational changes are being made, even if the outdoor dining use is temporarily suspended.
- (c) New or Amended Permit. Dependent upon the nature of the operational change, a new or amended outdoor dining encroachment permit may be required. The determination of the type of permit required shall be made by the Public Works Director or his or her designated representative.
- (d) Timeline. Permittees making operational changes shall have ninety (90) days to complete said changes and obtain a new or amended outdoor dining encroachment permit, where said permit is deemed necessary by the Public Works Director or his or her designated representative. Permittees unable to meet this timeline requirement must notify the Public Works Director in writing and request an extension to a date certain. The Public Works Director may, at his or her sole discretion, grant or deny the extension request.

ARTICLE 6. PROTEST AND APPEAL PROCESS.

4-15.601. PROTEST ISSUANCE OF PERMIT.

Upon application for an outdoor dining permit, the City will serve the property owners adjacent to the applicant's business with Notice of Application for an outdoor dining permit. The adjacent property owners may protest the issuance of said permit by checking the appropriate box on the Notice and returning it to the Public Works Director within ten (10) business days of receipt of the City's

Notice of Application. The Public Works Director will meet with all those protesting said application and consider the grounds for protest in reaching a final decision on the application.

ARTICLE 7. MISCELLANEOUS.

4-15.701. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this chapter, since the same would have been enacted by the City Council without the incorporation in this chapter of any such invalid phrase, clause, sentence, paragraph, or section.

4-15.702. VIOLATION B PENALTY.

- (a) Except as otherwise specifically provided, violation of any of the provisions contained in this chapter shall constitute a misdemeanor.
- (b) In the event that any provisions of this chapter are violated by a firm or corporation, the officer or officers, or the person or persons responsible for the violation shall be subject to the penalty provided above.
- (c) Violation of any of the provisions of this chapter may be remedied by injunction or other civil proceedings commenced in the name of the City of Modesto by the City Attorney.

4-15.703. AMERICANS WITH DISABILITIES ACT.

Any person or entity receiving a permit hereunder shall fully comply with all the requirements of the Americans With Disabilities Act as currently existing or as may be hereafter amended.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in

the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April 2006, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 


JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

Ord. No. 3407-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 25th day of April, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: May 25, 2006

ORDINANCE NO. 3408-C.S.

AN ORDINANCE AMENDING THE PRECISE PLAN FOR THE SOUTHEAST QUADRANT OF AREA NO. 20 OF THE VILLAGE ONE SPECIFIC PLAN, TO CHANGE THE LAND USE DESIGNATION FROM SENIOR HOUSING, OFFICE, AND MULTI-FAMILY RESIDENTIAL TO VILLAGE RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL AND TO AMEND VILLAGE ONE DESIGN AND DEVELOPMENT STANDARDS, PROPERTY LOCATED AT THE NORTHEAST CORNER OF BELHARBOUR DRIVE AND ROSELLE AVENUE (STANISLAUS COUNTY HOUSING AUTHORITY)

WHEREAS, the City Council, on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that precise plans be adopted prior to any development in the Village One area, and

WHEREAS, the Village One Specific Plan is divided into 35 precise plan areas, and a precise plan is required prior to development in each area, and

WHEREAS, Ordinance No. 3155-C.S., which became effective on October 7, 1999, adopted a Precise Plan for Area No. 20, Sub Area C of the Village One Specific Plan, and

WHEREAS, Ordinance No. 3156-C.S. which became effective October 7, 1999, rezoned the property from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, an application has been filed by the Stanislaus County Housing Authority for an amendment to the Precise Plan for the southeast quadrant of Area No. 20 to change the land use designation from Senior Housing, Office, and Multi-Family Residential to

Village Residential and Multi-Family Residential and to amend the Village One design and development standards, property located at the northeast corner Belharbour Drive and Roselle Avenue, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on February 27, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after reviewing and considering the oral and documentary evidence, the Planning Commission, by Resolution No. 2006-11, recommended to the City Council adoption of an amendment to the Precise Plan for the southeast quadrant of Area No. 20 to change the land use designation from Senior Housing, Office, and Multi-Family Residential to Village Residential and Multi-Family Residential and to amend the Village One design and development standards, property located at the northeast corner of Belharbour Drive and Roselle Avenue, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on May 9, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, and evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. That said amendment to the Precise Plan for the southeast quadrant of Area No. 20 is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment to the Precise Plan for Area No. 20 is consistent with the 2003 Modesto Urban Area General Plan, including the adopted Housing Element, because it will not adversely affect and is consistent with the Housing Element's primary goals and objectives of ensuring that the City maintains a sufficient site inventory to meet its RHNA and providing for the development of low-income housing units within the City.

2. The proposed amendment to the Precise Plan for Area No. 20 is consistent with the Village One Specific Plan as amended.

3. The change in land use proposed by the amendment will facilitate the development of the Village One Town Center Housing Project which will designate some of the residential units for needed affordable housing.

4. The revised layout will facilitate the development of needed street improvements along Roselle Avenue and Belharbour Drive for the Village One Town Center Housing Project.

SECTION 2. ADOPTION OF AMENDMENT TO PRECISE PLAN FOR THE SOUTHEAST QUADRANT OF AREA NO. 20. The City Council has reviewed and considered the amendment to the Precise Plan for the southeast quadrant of Area No. 20 of the Village One Specific Plan to change the land use designation from Senior Housing, Office, and Multi-Family Residential to Village Residential and Multi-Family residential and to amend the Village One design and development standards, property located at the northeast corner of Belharbour Drive

and Roselle Avenue as recommended by the Planning Commission, and the Council does hereby approve said amendment to the Precise Plan for the southeast quadrant of Area No. 20. A copy of said amendment is attached hereto.

Adoption of said Amendment is subject to the following condition:

1. The project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning this Precise Plan Amendment (File No. PPA-03-002). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May, 2006, by Councilmember Dunbar, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Keating, Olsen

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY, Interim City Attorney

Ord. No. 3408-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23 day of May, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: June 22, 2006

ORDINANCE NO. 3409-C.S.

**AN ORDINANCE ADOPTING A PRECISE PLAN FOR
AREA NO. 30 OF THE VILLAGE ONE SPECIFIC PLAN,
RELATING TO PROPERTY LOCATED ON THE EAST
SIDE OF FINE AVENUE, SOUTH OF SHARON AVENUE,
NORTH SIDE OF MERLE AVENUE, AND WEST OF
CLAUS ROAD. (POPE)**

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan is divided into 35 Precise Plan Areas and requires that a Precise Plan be approved prior to development in each Area, and

WHEREAS, an application has been filed by O'Dell Engineering on behalf of Cary Pope for adoption of a Precise Plan for Area No. 30 of the Village One Specific Plan, property located on the east side of Fine Avenue, south of Sharon Avenue, north side of Merle Avenue, and west of Claus Road, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on November 21, 2006, continued to January 23, 2006, and again continued to February 27, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after reviewing and considering the oral and documentary evidence, the Planning Commission, by Resolution No. 2006-09, recommended to the City Council adoption of a Precise Plan for Area No. 30 of the Village One Specific Plan, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on May 9, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. That the proposed Precise Plan for Area No. 30 of the Village One Specific Plan is required by public necessity, convenience, and general welfare for the following reasons:

1. The Precise Plan and rezoning are consistent with the Village One Specific Plan and Modesto Urban Area General Plan.
2. The project provides a circulation and lot design that is consistent with City standards.

SECTION 2. APPROVAL OF PRECISE PLAN. That the City Council has reviewed and considered the Precise Plan for Area No. 30 of the Village One Specific Plan as recommended by the Planning Commission, and the Council does hereby approve said Precise Plan, a copy of which is on file in the City Clerk's Office.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the

City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating , was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

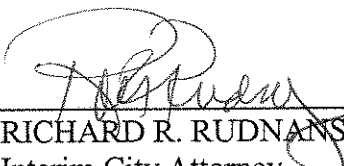
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

Ord. No. 3409-C.S.

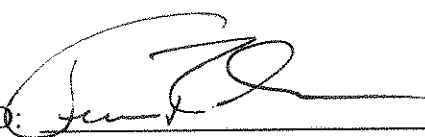
FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23 day of May, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: June 22, 2006

ORDINANCE NO. 3410-C.S.

AN ORDINANCE REZONING VILLAGE ONE PROPERTY FROM SPECIFIC PLAN-HOLDING ZONE, SP-H, TO SPECIFIC PLAN-OVERLAY ZONE, SP-O, FOR PROPERTY LOCATED ON THE EAST SIDE OF FINE AVENUE, SOUTH OF SHARON AVENUE, NORTH SIDE OF MERLE AVENUE, AND WEST OF CLAUS ROAD. (POPE)

WHEREAS, the City Council on October 16, 1990, adopted the Specific Plan for Village One, a 1780-acre area of land adjoining the northeast portion of the City of Modesto, within its Sphere of Influence, and

WHEREAS, the Village One Specific Plan requires that concurrent with the review and approval of a Precise Plan, all properties included in the Precise Plan shall be rezoned to Specific Plan-Overlay Zone, SP-O, as set forth in Title 10 of the Modesto Municipal Code, and

WHEREAS, an application has been filed by O'Dell Engineering on behalf of Cary Pope for a Precise Plan for Area No. 30, property located on the east side of Fine Avenue, south of Sharon Avenue, north side of Merle Avenue, and west of Claus Road, and

WHEREAS, the application package also seeks rezoning from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, and

WHEREAS, a public hearing was held by the Planning Commission of the City of Modesto on November 21, 2006, continued to January 23, 2006, and again continued to February 27, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after the public hearing, it was found and determined by the Planning Commission that rezoning of the property as requested is required by public necessity, convenience and general welfare, and

WHEREAS, by Resolution No. 2006-09, adopted February 27, 2006, the Planning Commission recommended that the application of O'Dell Engineering on behalf of Cary Pope to rezone Village One property from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O, for property located on the east side of Fine Avenue, south of Sharon Avenue, north side of Merle Avenue, and west of Claus Road be approved, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 9, 2006, at 5:30 p.m., 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 and evidence both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

SECTION 1. After a public hearing held on May 9, 2006, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines that the requested rezoning is in accordance with the General Plan and the Village One Specific Plan and will serve the public health, safety and general welfare and provide the economic and social advantages resulting from orderly, planned use of land resource for the following reasons:

1. The Precise Plan and rezoning is consistent with the Village One Specific Plan and Modesto Urban Area General Plan.

2. The project provides a circulation and lot design that is consistent with City standards.

SECTION 2. ZONING CHANGE. Section 13-3-9 of the Zoning Map of the City of Modesto is hereby amended to rezone the following described property from Specific Plan-Holding Zone, SP-H, to Specific Plan-Overlay Zone, SP-O:

SP-H to SP-O, PPA 30

All that portion of the southwest quarter of Section 13, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, City of Modesto, State of California, being more particularly described as follows:

Beginning at the centerline intersection of Fine Avenue and Merle Avenue; thence along the centerline of said Fine Avenue North 00°22'57" West 1323.89 feet to the centerline intersection of said Fine Avenue and Sharon Avenue; thence along the centerline of said Sharon Avenue North 89°50'01" East 1314.39 feet to the intersection of said centerline of Sharon Avenue and the east line of said Section 13; thence along said east line South 00°17'49" East 1324.39 feet to the intersection of said east line and the centerline of said Merle Avenue; thence along said centerline South 89°51'21" West 1312.42 feet to the Point of Beginning all shown on the attached exhibit "PRECISE PLAN AREA #30" and made a part hereof and containing 39.9 acres, more or less

SECTION 3. ZONING MAP. Section 13-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the

City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

- AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None


APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

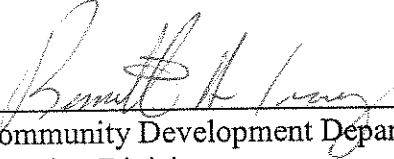
By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

APPROVED AS TO DESCRIPTION:

By 
Community Development Department
Planning Division

Ord. No. 3410-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23 day of May, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

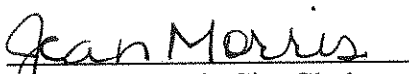
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST: 

JEAN MORRIS, City Clerk

Effective Date: June 22, 2006

ORDINANCE NO. 3411-C.S.

**AN ORDINANCE AMENDING SECTION 8-3.102 OF
ARTICLE 1 OF CHAPTER 3 OF TITLE 8 OF THE
MODESTO MUNICIPAL CODE RELATING TO CITY
CONTRACTS - CONTRACTING AUTHORITY.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 8-3.102 of Article 1 of

Chapter 3 of Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

8-3.102. CONTRACTING AUTHORITY.

The City Manager may approve and authorize all contracts and purchase orders involving an expenditure of City funds in the total amount of fifty thousand dollars (\$50,000.00) or less. Except as noted below, no contract involving an expenditure in excess of fifty thousand dollars (\$50,000.00) may be authorized, approved or executed without City Council approval. The fifty thousand dollars (\$50,000.00) limit set forth in the preceding sentences does not apply to the following:

- (a) Contracts for public works projects consisting of the improvement or modification of traffic signals or signal systems including those street improvements which are incidental to or related to the improvement or modification of the traffic signal. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of two hundred fifty thousand dollars (\$250,000.00) or less.
- (b) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation or modification of any facilities funded by a Mello-Roos Community Facilities District and involving an expenditure of District Facility Taxes in the amount of three million dollars (\$3,000,000.00) or less. The District Administrator may approve and authorize all contracts for such projects.
- (c) Contracts for public works projects consisting of the maintenance, repair, replacement, and improvement of existing water lines. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.

- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
- (e) Contracts for public works projects consisting of repairs determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects in the amount of two hundred thousand dollars (\$200,000.00) or less. Within ten (10) days of the authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.
- (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than three hundred thousand dollars (\$300,000.00) in City funds.
- (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
- (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's Institutional Network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of four million two hundred thousand dollars (\$4,200,000.00) or less.

- (i) Contracts for public works projects consisting of those improvements to the South Modesto water system identified in that certain technical memorandum prepared by West Yost and Associates dated October 17, 2005, as amended on November 7, 2005, for the benefit of the Galas Brothers Unit II Project bounded by Hatch Road, Estrella Way, Ironside Drive, Salazar Circle and Monticello Lane in the City of Modesto and any incidental work thereto. The City Manager may approve and authorize all contracts for this project involving a total expenditure of City funds not to exceed two million five hundred thousand dollars (\$2,500,000) or less.
- (j) Contracts for public works contracts consisting of the purchase, installation and replacement of water meters including an automated water meter reading (AMR) system and infrastructure work in conjunction with the system-wide water metering program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of five million dollars (\$5,000,000) or less annually.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of article 3 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May, 2006, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: Hawn


APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

Ord. No. 3411-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23 day of May, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: Hawn

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST: 

JEAN MORRIS, City Clerk

Effective Date: June 22, 2006

ORDINANCE NO. 3412-C.S.

AN ORDINANCE AMENDING SECTION 2-1.08 OF CHAPTER 1 OF TITLE 2 OF THE MODESTO MUNICIPAL CODE RELATING TO CITY COUNCIL ORGANIZATION AND PROCEDURE - ORDER OF BUSINESS.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 2-1.08 of Chapter 1 of Title 2 of the Modesto Municipal Code is hereby amended to read as follows:

2-1.08. ORDER OF BUSINESS.

Promptly at the hour set by law on the date of each regular meeting, the members of the Council, the City Clerk, City Attorney and City Manager shall take their regular stations in the Council Chambers, and the business of the Council shall be taken up for consideration and disposition. The order of business shall be set forth by Council resolution from time to time, with the exception that the Mayor or other presiding officer may take any item out of order as the public necessity and convenience may require.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

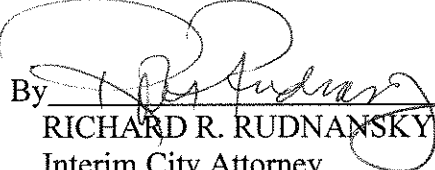
APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

Ord. No. 3412-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of June, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: July 6, 2006

Ordinance 3412-C.S.
Effective: July 6, 2006

ORDINANCE NO. 3413-C.S.

AN ORDINANCE ADDING SECTION 4-12.404 TO ARTICLE 4 OF CHAPTER 12 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO IMPOSITION AND COLLECTION OF REINSPECTION FEES.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 4-12.404 is hereby added to Article 4 of Chapter 12 of Title 4 of the Modesto Municipal Code to read as follows:

4-12.404. IMPOSITION AND COLLECTION OF REINSPECTION FEES.

- (a) The City Council has authorized reinspection fees for all fourth (4th) and subsequent reinspection of properties or activities regulated under this chapter when, upon reinspection, the City determines the properties or activities previously found not in compliance with the provisions of this chapter continue not to be in compliance.
- (b) Reinspection fees shall be charged according to the following schedule:
- (1) Fourth (4th) and fifth (5th) reinspection:
- | | |
|-----------|---------|
| 2006-2007 | \$33.00 |
| 2007-2008 | \$34.00 |
| 2008-2009 | \$35.00 |
| 2009-2010 | \$36.00 |
| 2010-2011 | \$37.00 |
- (2) Sixth (6th) and all subsequent reinspection:
- | | |
|-----------|----------|
| 2006-2007 | \$101.00 |
| 2007-2008 | \$104.00 |
| 2008-2009 | \$107.00 |
| 2009-2010 | \$110.00 |
| 2010-2011 | \$114.00 |
- (c) Where the assessment of reinspection fees is authorized under this article, the City shall provide the responsible party with a written notice stating:
- (1) The amount of reinspection fees assessed;

- (2) The dates on which all inspections and reinspections took place;
and
- (3) The deadline for payment of such fees.
- (d) Code enforcement fees collected pursuant to this chapter shall not be duplicated by any other action to recover these fees.
- (e) Failure of the responsible party to receive notice of reinspection fees shall not affect the validity of any fees imposed under this chapter.
- (f) The reinspection fee schedule is established and will be revised as necessary by the City Council to reflect current costs incurred for the additional work undertaken by City staff when the responsible party fails to correct code violations identified in this chapter in a timely manner.
- (g) The City shall collect the assessed reinspection fees by the use of appropriate legal means, including but not limited to, referral to the Finance Department for collection or assessment against the property.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2006, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
RICHARD R. RUDNANSKY
Interim City Attorney

Ord. No. 3413-C.S.

FINAL ADOPTION CLAUSE

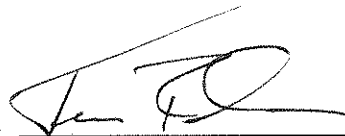
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of June, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: July 6, 2006

Ordinance 3413-C.S.
Effective: July 6, 2006

ORDINANCE NO. 3414-C.S.

AN ORDINANCE ADOPTING THE 2006-07 OPERATING BUDGET AND THE INTERIM CAPITAL IMPROVEMENT PROGRAM FOR 2006-07 FOR THE CITY OF MODESTO, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS

WHEREAS, pursuant to the Charter of the City of Modesto, the City Manager has presented a Proposed Operating Budget and Interim Capital Improvement Program for the 2006-07 Fiscal Year to the Finance Committee on May 2, 2006, and

WHEREAS, the Finance Committee has reviewed the Proposed Budget and Interim Capital Improvement Program in a series of televised public workshops on May 15, 16, 17, and 18, and

WHEREAS, the Finance Committee has recommended modifications to the Proposed Budget and Interim Capital Improvement Program and has forwarded its recommended budget to the full City Council, and

WHEREAS, the City Council has considered the recommendations of the Finance Committee, and

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was held on May 23, 2006, relating to the adoption of the Proposed Budget, and

WHEREAS, the City Council has reviewed the position control report prepared by staff, and

WHEREAS, prior to any discussion of the budget and prior to the final adoption, the City Council by separate motion considered each CIP project that could be the source of a potential conflict of interest to one or more members of the City Council without the participation of those members, and

WHEREAS, copies of the Proposed Budget have been and are available for inspection by the public at the office of the City Clerk,

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. ADOPTION OF BUDGET. That the operating budget, a copy of which is on file in the City Clerk's Office, is hereby adopted as the Fiscal Year 2006-07 Budget for the City of Modesto, and that the appropriation amounts for expenditures and revenues in each specified fund as shown on Exhibit A are hereby adopted.

SECTION 2. ADOPTION OF BUDGET CONTROLS. That the budgetary control and authority policies defined in Exhibit B of this ordinance and incorporated herein by reference is hereby adopted for the Fiscal Year 2006-07.

SECTION 3. ADOPTION OF INTERIM CIP. That the Interim Capital Improvement Program defined in the Capital Improvement Program section of the Fiscal Year 2006-07 budget and incorporated herein by reference is hereby adopted as the Capital Improvement Program for the City of Modesto, and that funds identified in Exhibit C as Additional Funding or New Projects are hereby appropriated for the corresponding projects and shall be part of the Budget for the Fiscal Year 2006-07 adopted hereby.

SECTION 4. ENCUMBRANCES. That the funds of the City of Modesto encumbered on June 30, 2006, are hereby appropriated for the purposes for which they are encumbered and shall be rolled over for the Fiscal Year 2006-07.

SECTION 5. MULTI-YEAR OPERATING PROGRAMS. That unexpended funds appropriated to Multi-Year Programs on June 30, 2006 are hereby re-appropriated for the projects for which they were appropriated, as identified in Exhibit D, and shall be part of the

Budget for the Fiscal Year 2006-07 adopted hereby.

SECTION 6. COUNCIL POLICIES. That the Policy Issues outlined in the Policies & Issues section of the Fiscal Year 2006-07 Proposed Budget have been reviewed and are hereby approved.

SECTION 7. EFFECTIVE DATE. Pursuant to Section 722 of the Charter of the City of Modesto, this ordinance shall go in effect and be in full force and operation immediately upon adoption.

SECTION 8. PUBLICATION. Copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of June 2006, by Councilmember Olsen, who moved its adoption, and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

RICHARD RUDNANSKY, Interim City Attorney

Ordinance 3414-C.S.
Effective June 6, 2006

**EXHIBIT A
BUDGET ADOPTION ORDINANCE**

FY2006-07

Operating Revenues/Expenditures - By Fund With Transfers

FUND	FUND NAME	Revenue	Transfers In	Total Revenue	Expenditures	Transfers Out	Total Expenditure	Net
0100	GENERAL FUND	117,474,967	2,337,022	119,811,989	114,740,954	11,081,117	125,822,071	(6,010,082)
0300	CAPITAL IMPROVEMENT SUPPORT	2,822,460	204,919	3,027,379	3,102,485		3,102,485	(75,106)
0310	SOLID WASTE	628,267		628,267	714,927		714,927	(86,660)
0320	EDUCATION & GOVT COMMUNICATION	132,965	133,000	265,965	255,524		255,524	10,441
0350	ELECTIONS	0		0	2,700		2,700	(2,700)
0400	OPERATING GRANTS - BLOCK	0		0	377		377	(377)
0410	OPERATING GRANTS - REIMBURSED	250,064	750,000	1,000,064	1,320,670		1,320,670	(320,606)
0510	LOCAL TRANSPORTATION	2,500,000		2,500,000	22,726		22,726	2,477,274
0520	LOCAL TRANSPORTATION NON-MOTORIZED	120,000		120,000	0		0	120,000
0600	TRAFFIC SAFETY	1,040,000		1,040,000	450,000	842,000	1,292,000	(252,000)
0700	STREETS, TRAFFIC & FORESTRY	4,857,070	4,222,775	9,079,845	8,163,770	723,443	8,887,213	192,632
0800	ECONOMIC DEVELOPMENT/STRATEGIC PLAN	0		0	489,462		489,462	(489,462)
0900	DOWNTOWN IMPROVEMENT DISTRICT	222,430		222,430	222,430		222,430	0
1130	CDBG - DIRECT PROGRAM	2,750,655		2,750,655	2,750,655		2,750,655	0
1150	HOUSING LOAN PROGRAM	293,250		293,250	293,250		293,250	0
1152	PUBLIC SERVICE	56,750		56,750	56,750		56,750	0
1170	HOME PROGRAM	1,465,556		1,465,556	1,465,556		1,465,556	0
1180	EMERGENCY SHELTER PROGRAM	104,098		104,098	104,098		104,098	0
1300	SPECIAL FUND FOR CAPITAL OUTLAY	0	170,579	170,579	0	50,579	50,579	120,000
1310	POLICE DEPT CAPITAL FACILITY FEE	0		0		212,000	212,000	(212,000)
1320	FIRE DEPT CAPITAL FACILITY FEE	0		0	0	150,579	150,579	(150,579)
1350	PARKS CAPITAL FACILITY FEE	0		0	453,740		453,740	(453,740)
1380	CITY HALL EXP CAPITAL FACILITY FEE	0		0		141,000	141,000	(141,000)
1390	ADMIN CAPITAL FACILITY FEE	200,000		200,000	201,900		201,900	(1,900)
1400	PARK FUND	0	349,000	349,000	0	200,000	200,000	149,000
1430	AIR QUALITY FUND CAPITAL FACILITY FEE	0		0		120,000	120,000	(120,000)
2100	PUBLIC FINANCING AUTHORITY	0		0		800,000	800,000	(800,000)
2600	CFD - VILLAGE ONE	260,000		260,000	260,000		260,000	0
2640	CFD - FAIRVIEW VILLAGE	123,000		123,000	123,000		123,000	0
2642	FAIRVIEW VILLAGE CFD-DEBT SERVICE	0		0	296,936		296,936	(296,936)
2650	CFD - NORTH BEYER	9,650		9,650	9,650		9,650	0
2660	CFD - ENTERPRISE PARK 1998	16,000		16,000	16,000		16,000	0
2670	CFD - CARVER/BANGS	168,100		168,100	168,100		168,100	0
2680	CFD - PELANDALE/SNYDER	24,996		24,996	24,996		24,996	0
2690	CFD - VILLAGE 1 #2	373,000		373,000	373,000		373,000	0
2692	CFD - VILLAGE 1 #2 - DEBT SERVICE			0	832,429		832,429	(832,429)
2750	CFD - NORTHPOINT VILLAGE	32,650		32,650	32,650		32,650	0
2800	CFD - COFFEE/CLARATINA	126,000		126,000	126,000		126,000	0
2900	CFD - INFRASTRUCTURE FINANCING PRGM A	252,854		252,854	374,628		374,628	(121,774)
6000	PARKING FUND	1,225,689		1,225,689	1,157,157		1,157,157	68,532
6100	WATER OPERATIONS	48,760,274	264,000	49,024,274	30,086,310	1,898,700	31,985,010	17,039,264
6101	WATER DEVELOPMENT FEES	3,177,000		3,177,000	0		0	3,177,000
6120	WATER CIP COP	0	1,800,120	1,800,120	1,800,120		1,800,120	0
6210	WASTEWATER OPERATIONS	22,964,340	114,000	23,078,340	20,621,117	104,574	20,725,691	2,352,649
6211	WASTEWATER DEVELOPMENT FEES	584,631		584,631	0		0	584,631
6280	STORM DRAINAGE	5,278,839	678,704	5,957,543	6,140,715	9,241	6,149,956	(192,413)
6290	COMPOST OPERATIONS	1,284,650		1,284,650	1,263,298		1,263,298	21,352
6310	AIRPORT OPERATIONS	737,800		737,800	862,740	925	863,665	(125,865)
6320	SPECIAL AVIATION	113,500		113,500	0		0	113,500

**EXHIBIT A
BUDGET ADOPTION ORDINANCE**

FY2006-07

Operating Revenues/Expenditures - By Fund With Transfers

FUND	FUND NAME	Revenue	Transfers In	Total Revenue	Expenditures	Transfers Out	Total Expenditure	Net
6510	BUS SERVICE - FIXED ROUTE	0		0	0	18,000	18,000	(18,000)
6520	BUS SERVICE - DIAL-A-RIDE	2,224,759		2,224,759	2,224,759		2,224,759	0
6530	TRANSPORTATION CENTER	578,350		578,350	578,350		578,350	0
6540	BUS SERVICE - FIXED ROUTE MAX OPERATIO	4,828,311		4,828,311	9,430,794		9,430,794	(4,602,483)
6550	BUS SERVICE - ALTERNATIVE TRANSPORTAT	53,118	1,500	54,618	61,497	2,365	63,862	(9,244)
6600	GOLF FUND	2,371,521	100,000	2,471,521	2,371,521		2,371,521	100,000
6700	CENTRE PLAZA	1,000,129	724,826	1,724,955	1,658,605	147,285	1,805,890	(80,935)
6710	CENTRE PLAZA FF&E	0	147,285	147,285	74,970		74,970	72,315
7100	CENTRAL SERVICES - COPIER	26,000		26,000	26,000		26,000	0
7110	INVENTORY PURCHASES	2,879,875		2,879,875	2,877,458		2,877,458	2,417
7120	CENTRAL SERVICES - MAIL	282,927		282,927	282,927		282,927	0
7130	INFORMATION & TECHNOLOGY	4,429,189		4,429,189	4,490,953		4,490,953	(61,764)
7200	FLEET MANAGEMENT	4,564,301	212,000	4,776,301	5,105,034	9,053	5,114,087	(337,786)
7210	FLEET EQUIPMENT REPLACEMENT	3,795,000		3,795,000	2,405,100		2,405,100	1,389,900
7310	INSURANCE- ADMINISTRATION	979,606		979,606	994,606		994,606	(15,000)
7320	INSURANCE - WORKERS COMPENSATION	3,679,986	1,419,999	5,099,985	3,679,986		3,679,986	1,419,999
7330	INSURANCE - LIABILITY	2,640,884		2,640,884	2,640,884		2,640,884	0
7340	INSURANCE - PROPERTY INSURANCE	410,609		410,609	410,609	420,000	830,609	(420,000)
7350	INSURANCE - DENTAL	1,334,463		1,334,463	1,334,463		1,334,463	0
7360	INSURNACE - HEALTH	10,444,768		10,444,768	10,444,768		10,444,768	0
7370	INSURANCE - DISABILITY	398,795		398,795	398,795		398,795	0
7380	OTHER EMPLOYEE INSURANCE	420,970		420,970	420,970		420,970	0
7390	INSURANCE - VISION	330,656		330,656	330,656		330,656	0
7510	EMPLOYEE BENEFITS MANAGEMENT	37,470,649		37,470,649	37,470,649		37,470,649	0
7520	EMPLOYEE BENEFITS ADMINISTRATION	302,037		302,037	409,570		409,570	(107,533)
7800	BUILDING SERVICES	1,852,919		1,852,919	2,214,507	8,844	2,223,351	(370,432)
8500	JPA BUILDING SERVICES	1,500,717		1,500,717	1,463,869		1,463,869	36,848
8850	STANISLAUS DRUG ENFORCEMENT AGCY	2,229,669		2,229,669	2,424,998		2,424,998	(195,329)
8900	TUOLUMNE RIVER REGIONAL PARK	347,031		347,031	550,708		550,708	(203,677)
8910	TRRP SPECIAL REVENUE FUND-CIP	75,000		75,000	0		0	75,000
9020	RDA COP DEBT SERVICE FUND			0		920,690	920,690	(920,690)
9440	PUBLIC FINANCING AUTHORITY COPS	0	317,072	317,072	317,072		317,072	0
9450	PUBLIC FINANCING AUTHORITY 98 BONDS	0	3,913,594	3,913,594	3,361,156		3,361,156	552,438
	TOTALS	311,883,744	17,860,395	329,744,139	299,837,055	17,860,395	317,697,449	12,046,690

EXHIBIT B
BUDGET ADOPTION ORDINANCE

City of Modesto - Financial Policies

1. Budget Adoption Level: The city wide, legally adopted level for the budget of any program is by department at the Fund level.
2. General Fund Reserve: The Council has established the unappropriated reserve's minimum level to be 8% of the current appropriations for operating expenditures and operating transfers-out.
3. Forecasting Model: For the General, Enterprise, Internal Service and Capital Project and other major funds the Finance Department will maintain either a 5 or 10-year financial forecasting model to assess the city's ability to respond to changes in anticipated revenue levels, capital improvement program needs and changes proposed in operating costs. (the use of a 5 or 10-year model will depend on the conditions that apply to each fund)
4. Enterprise Funds and other Non-General Fund Operations: These activities should be self-supporting and should maintain reserve levels that are adequate to protect against fluctuations in revenue and expenditure levels. Activities that deviate from this requirement shall be identified for the City Council annually at the time of budget adoption. Exempt from this requirement are those funds that account solely for grant funds.
5. Inter-fund Loans and Loans to Component Units: Loans between funds and loans to the RDA and other component units of the city should be considered in light of a multi-year business plan that demonstrates a reasonable ability to repay the loan. All inter-fund loans and loans to component units, either existing or proposed, shall be identified for the City Council at the time of budget adoption. Generally, inter-fund loans and loans to component units shall be established with a repayment deadline that reflects the earliest feasible opportunity for repayment of the loan. Interest rates charged on the loan shall be based on the actual rate of return earned by the city's investment portfolio during the 12-month period immediately preceding a payment date.
 - a. Note that the terms and conditions for existing loans between the City and the Redevelopment Agency are governed by one or more separate resolutions adopted at the time the loans were approved.
6. Interest Allocation: Interest shall be allocated quarterly to all funds based on their average monthly balances during each quarter.
7. Direct Charges between Funds: Costs charged between funds such as force-account labor and other direct costs shall be charged on the basis of actual cost and not on the budgeted amount, unless a separate contract exists between the managers of the two programs allowing the use of the budgeted amount as the basis for the charge.

EXHIBIT B
BUDGET ADOPTION ORDINANCE

8. Inter-fund Transfers: Unless direction is given at the time an inter-fund transfer is approved that the amount to be transferred between funds is not subject to adjustment based on a share of cost formula, all inter-fund transfers shall be based upon the sending fund's pro rata share of any project costs or other obligation that is the basis for the transfer. Therefore, a reconciliation of the share of costs allocable to the fund(s) from which resources are to be transferred shall be performed prior to the year-end closing of the city's financial records and shall become the basis for determining the actual amount of any resources to be transferred. It is the intent of this policy that any transfers designed to provide a subsidy to the operations of another fund shall not exceed the amount needed to provide sufficient resources to make revenues equal expenditures unless other direction is provided by the City Council.

All inter-fund transfers and their purpose shall be identified to the Council annually, at the time of the budget adoption.

9. Multi-year appropriations: Appropriations for certain grants and on-going Capital Improvement Program projects that were authorized in previous years and that are not fully expended shall be deemed valid until revoked. Appropriations related to certain developer-funded expenditures may also be treated as multi-year appropriations.
10. Fund Replacement Reserves: In order to provide future resources for the replacement or repair of depreciable assets, each fund shall establish a list of depreciable assets, including useful lives and replacement costs, that will determine the amount to be set-aside annually to allow the timely replacement or repair of these assets. Each program manager shall also establish a plan for funding the reserve and shall disclose the adequacy of the reserve level annually to the City Council as part of the annual budget adoption process.
11. Budget Adjustment Authority: The following budgetary adjustment actions are delegated to the parties shown below.
- a. City Council
 - i. Appropriation of undesignated reserves
 - ii. Appropriation of new revenues
 - 1. Does not include Developer Payments
 - iii. Budgeting inter-fund transfers
 - 1. Does not include adjustments to budgeted transfers where the intent is to subsidize an enterprise operation as shown in item (x) under the City Manager's budget adjustment authority shown on page 3.
 - iv. Creation of inter-fund loans
 - v. Creation of, or increase in, any multi-year appropriation
 - vi. Addition of permanent staff positions
 - vii. Appropriation of payments for new indebtedness including operating leases
 - viii. All other budgetary actions not delegated to another official

EXHIBIT B
BUDGET ADOPTION ORDINANCE

- b. City Manager
 - i. Transfer appropriations between departments within a fund
 - ii. Changing any capital equipment appropriation
 - iii. Changing appropriations for temporary agency labor
 - iv. Transfer appropriations to or from salary line items
 - v. Appropriate reserves for litigation on a case-by-case basis
 - vi. Revoke multi-year appropriations
 - vii. Transfer appropriations from a primary capital project to create or modify the budget of a related secondary capital project without increasing the total appropriations
 - viii. Transfer appropriations between two or more related secondary capital projects without increasing the total appropriations
 - ix. Close Capital Improvement Program projects
 - x. Adjustments to Inter-fund transfers intended to balance enterprise fund operations where the cumulative total of any adjustment does not increase the original City Council approved appropriation by more than \$50,000.00
 - xi. Appropriate Developer Payments not previously budgeted
 - 1. Annexation Deposits
 - 2. Special District Formation Deposits
 - 3. Developer Deposits to be recognized as revenue

- c. Finance Director's Authority
 - i. Appropriate unbudgeted grant interest
 - ii. Revise the allocation of Internal Service Fund charges between departments, provided that the total allocated amount does not increase (any such changes to the allocation shall not result in an increase or decrease to the total amount of discretionary appropriations provided to the affected department(s))
 - iii. Make technical budget corrections to implement the intent of Council-approved actions and resolutions
 - iv. Transfer appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases)

- d. Department Director's Authority
 - i. Transfer appropriations between non-salary line items within a department, within a single fund (excludes appropriations related to capital equipment, capital improvement program projects and temporary agency labor)

EXHIBIT B
BUDGET ADOPTION ORDINANCE

Capital Projects

Capital Improvement Program Budget: The 10-year Capital Improvement Program budget shall reflect the goals and policies established by the General Plan and adopted Specific Plans. Emphasis shall also be given to the need for identification of opportunities to mitigate inadequate and deteriorating infrastructure. Care shall be given to utilize available resources and grants in a manner that legitimately maximizes the city's capacity to complete the capital improvements described above.

CIP Purpose

The purpose of the Capital Improvement Program (CIP) Budget Process is to allow the city to systematically plan, schedule, manage, monitor and finance capital projects to ensure cost-effectiveness and conformity with established policies. The CIP is a ten-year plan organized into the same functional groupings used for the operating programs. 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.

Requirements to Qualify for the CIP:

1. Cost should be \$100,000 or more for the life of the project
2. May take more than a single year to complete
3. Project revenues and expenditures must be clearly identified and balanced
4. Projects must have an identifiable timeline that includes periodic milestones
5. Maintenance costs to increase the life of the City's infrastructure, replacement costs for infrastructure and the budgeting of amounts to be set-aside in a reserves to create future funding for a project not defined as a Capital Project, but are included in the Capital Improvement Project (CIP) budget document. Examples of these include:
 - Pavement maintenance
 - Water System Downstream Improvements
6. Certain purchases and installation of fixed assets may also be included in the CIP budget plan
7. Every capital project will have a project manager who will prepare the project proposal, ensure that required phases are completed on schedule, authorize all project expenditures, ensure that all regulations and laws are observed, and periodically report project status to the City Council. The project manager ensures that projects comply with the requirements imposed by the guidelines controlling the various revenue sources that are used to finance capital project costs. The project manager shall also coordinate project accounting with the Finance Department.

EXHIBIT B

BUDGET ADOPTION ORDINANCE

Primary-Secondary Project Relationships

The CIP frequently contains several projects that are similar in nature. For example, Public Works proposes projects to replace or upgrade traffic signals at different intersections throughout the City. The construction at each intersection is considered a separate project.

The City Council previously approved grouping similar projects together in a “primary-secondary” relationship. Using the traffic signal example, “Traffic Signals” is the “primary” project, with individual “secondary” projects identified when either construction or construction design on each specific intersection will begin. Note that the primary project description must include a description of each of the secondary projects related to it.

To summarize, the primary project serves as the budgetary control device for both the primary and secondary components. The City Manager has the authority to move funding from one secondary project to another secondary project, as long as the overall project appropriation level does not change. This approach allows for greater flexibility and efficiency when programming multiple projects of the same type.

The Capital Improvement Program Budgeting Process - Generally

Section 65401 of the Government Code and Section 10-1.102 of the Modesto Municipal Code, requires the Planning Commission to review all new capital projects to determine if they conform with the City’s adopted *Modesto Urban Area General Plan*.

Existing projects are reviewed annually by the Finance Department. This review uses financial information to identify project progress and completion timelines. This will be integrated into the budget proforma review process.

The Finance Department will work with the capital project managers to develop CIP revenue forecasts for the budget year. This analysis will be compiled and distributed by the Finance Department to the appropriate project managers.

The Senior Executive Team will review and prioritize all existing capital projects to assure consistency with the City’s General Plan and the City’s vision statement.

The City Council will review new projects and approve the re-appropriation of funds for existing projects as part of the annual Capital Improvement Project budget cycle.

Projects to be closed will be identified by the project managers and submitted by the appropriate Department Director through the Finance Director to the City Manager for closure. The City Manager has the final authority to close the projects using the CIP Closure Form. The reasons for closing a project may include:

- Project Completion
- Delays due to unanticipated costs or events
- Change in Council direction

EXHIBIT B

BUDGET ADOPTION ORDINANCE

Capital Improvement Program (CIP)– Budgeting Policies

1. Project costs are appropriated only when the required revenues are available.
 - a. For projects financed with grant monies, the grant award must be accepted by the City Council. Note that a copy of the final grant award must be provided to the Finance Department.
 - b. For projects financed with debt, the financing must be completed before the project can be considered for the CIP, unless a reimbursement resolution has been adopted by the City Council.
2. Budget actions involving any Federal, State or grant funded CIP are restrained by the conditions of the funding award.
3. Project costs will be included in the CIP in phases, i.e. projects that are not bid-ready will reflect appropriations only through the design phase.
4. Appropriations needed for the construction phase are based on the bid awarded at the time the appropriation(s) for construction, contingency and construction management costs are requested.
5. If project costs at the time of bid award are greater than the funding available at that time, four options are typically available:
 - a. Eliminate the project.
 - b. Defer the project for consideration to the next budget cycle.
 - c. Re-scope or change the phasing of the project to meet the existing budget.
 - d. Request to close one or more other projects that are not time-sensitive, where doing so will not create a hardship. This will allow a new appropriation to be created from the funding restored in the fund balance.
6. Projects that are not included in the annual CIP adoption process may be added later in the year but must meet the policy requirements identified above and must be previously approved by the Planning Commission.

Capital Project Reporting and City Council Updates

Project Status Reports

Project milestones will be listed as objectives in the CIP program narratives to facilitate project tracking. Status reports for all CIP appropriations shall be filed with the City Council every October and May. Recurring status reports shall include:

1. The name of the project manager
2. Actual costs incurred compared to the budget, by phase.
3. Original timeline compared to the current timeline with an explanation for variances that push the deadline more than 30 days beyond the original date
4. The amount of funding received, if any, from outside sources or via transfers
5. The status of any required compliance reporting.

Capital Improvement Program
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EXHIBIT C
BUDGET ADOPTION ORDINANCE

ID #	Project #	Description/Status	Funding Approved	Inception to date Expenses & Encumb	Available as of 4/5/2006	Additional Funding Requested	Funding Source	Project Manager
PUBLIC SAFETY -POLICE								
1	1300-190-M168	POLICE TACTICAL TRAINING CENTER <i>The Police Tactical Training Center currently is in the middle of two large projects. First, the Duplex from Sylvan Road was moved to the site and set on a foundation. Finishing work, hooking up utilities and repairing the structure that was cut in half for the move, is being scheduled right now. The second, the "Range Building" that will house the target controls and serve as storage (including vaults) and observation area went to bid and the award of bid will be going to council May 2nd.</i>	1,771,430	1,442,608	328,822			Savelli
2	1310-190-G485	NORTHEAST POLICE STATION <i>Talks have begun with developers in the area to secure a location for a joint facility with Fire and possibly PRN.</i>	600,000	0	600,000			Harden

TRAFFIC								
3	2300-160-N068	5 TRAFFIC SIG MOD-STATE (102) <i>Project under construction</i>	400,000	336,258	63,742			Murphy
4	0700-430-C926	7TH ST BRIDGE PRELIM DESIGN (012) <i>Current design</i>	49,150	38,847	10,303			Phillips
5	2300-430-M203	9TH STREET BRIDGE REPLACEMENT (054)	28,686,645	23,361,489	5,325,156			Phillips
6	0510-430-K389	9TH STREET PEDESTRIAN ENHANCEMENT <i>Under design</i>	167,916	1,053	166,863			Phillips
7	1410-160-E635	ARTERIAL ROUNDABOUTS(119) <i>Design for Sylvan/Roselle complete. Design for Sylvan/Litt to be complete next year. Sylvan/Roselle to bid this year.</i>	1,000,000	23,762	976,238			Murphy
8	1300-160-M282	BACKUP BATTERY SYSTEMS-TRAFFIC	200,000	133,825	66,175			Keys
9	1410-430-H719	BRIGGSMORE:OAKDALE TO CLAUS	3,279,535	2,922,711	356,824			Phillips
10	1410-430-H465	CARPENTER RD BRIDGE SEISMIC(064)	34,000	4,081	29,919			Phillips
11	2370-160-E701	CALIFORNIA AVE IMPROVEMENT (131) <i>Project 90% complete.</i>	185,000	10,238	174,762			Barnes
12	1410-480-M278	CFF-STREETS PELANDALE-HIGHWAY 99 <i>Project reopened</i>	1,700,000	370,422	1,329,578			Phillips
13	1410-430-H455	CLARANTINA MCHENRY-COFFEE 4 LANE	350,000	1,689	348,311			Phillips
14	1410-430-Q210	CLARATINA - COFFEE TO OAKDALE	3,148,985	17,852	3,131,133			Phillips
15	1410-430-H470	CLARATINA-OAKDALE TO ROSELLE	1,350,000	72,887	1,277,113			Phillips
16	1410-440-M283	CLAUS RD. PLAN LINE	100,000	24,478	75,522			Phillips
17	2300-430-N489	COMMUNITY GATEWAYS (114)	502,474	457,798	44,676			Phillips
18	1410-430-H476	DEVELOPER REIMBURSE IMPROVEMENT/ROW <i>Under construction</i>	1,354,583	161,039	1,193,544	1,500,000	1410	Gedney

Capital Improvement Program
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EXHIBIT C
BUDGET ADOPTION ORDINANCE

ID #	Project #	Description/Status	Funding Approved	Inception to date Expenses & Encumb	Available as of 4/5/2006	Additional Funding Requested	Funding Source	Project Manager
19	1430-430-H403	DEVELOPER REIMBURSE IMPROVEMENT/ROW <i>Newly created 1/10/06 - Ongoing</i>	132,823	0	132,823			Gedney
20	2300-160-A153	ENCINA TRAFFIC CALMING (113) <i>Construction complete CAO to prepare final paperwork.</i>	403,035	395,426	7,609			Murphy
21	2300-160-N064	EXPAND ADVANCE TRAF MGMT SYS COLLEGE AVE(106) <i>Council awarded project in March 2006.</i>	100,000	12,942	87,058			Murphy
22	2641-020-X728	FAIRVIEW VILLAGE BIKE TRAIL <i>Portion of project is being constructed by developer per reimbursement agreement</i>	500,000	0	500,000			Dion
23	2641-020-X725	FAIRVIEW VILLAGE H20 SYSTEM <i>Portion of project is being constructed by developer per reimbursement agreement</i>	1,621,100	862,587	758,513			Dion
24	2300-160-Q005	FED (HES) GRANT STREET LIGHTS 128	178,000	80,477	97,523			Phillips
25	2600-020-A107	FLOYD AVE-OAKDALE TO ROSELLE <i>Project currently under construction</i>	5,463,100	4,159,016	1,304,084			Dion
26	2691-020-X512	FLOYD AVE BETWEEN ROSELLE & FINE <i>Survey complete, design to begin soon</i>	5,000,000	7,180	4,992,820			Dion
27	2691-020-X511	FREEDOM NEIGHBORHOOD PARK IMPROVEMENT <i>Project currently under construction</i>	1,040,100	0	1,040,100			Dion
28	0510-430-H467	KANSAS EMERALD TO CARPENTER 05/06 <i>Current design</i>	968,039	17,761	950,278			Phillips
29	0700-430-F265	KANSAS/NEEDHAM OVERHEAD PRO(GS8082) <i>Construction complete-groundwater monitoring is ongoing</i>	12,769,085	12,526,586	242,499			Phillips
30	2370-160-E690	LIGHTED CROSSWALK (116) <i>Design 50% complete.</i>	250,000	4,256	245,744			Barnes
31	2300-160-A265	LOWER UPRR CROSSINGS(0801)	1,704,881	1,621,375	83,506			Horn
32	0700-160-E453	MAINTAIN ADVANCE TRAF MGMT SYS CCTV SYSTEM <i>Ongoing project as needed</i>	60,000	12,144	47,856			Barnes
33	2691-020-Q315	MERLE ROAD IMPROVEMENT <i>Design not yet started</i>	228,746	0	228,746			Dion
34	2691-020-X527	OAKDALE & ROAD G INTERSECTION <i>Being installed by developer per reimbursement agreement</i>	50,470	50,470	0	739,800	2691	Dion
35	2300-160-A221	OFFICE TRAFFIC SAFETY LIGHTED CROSSWALKS VAR	120,000	96,411	23,589			Horn
36	0700-430-H485	PAVEMENT CONDITION SURVEY <i>Under design</i>	230,000	6,708	223,294			Phillips
37	0700-160-E451	PEDESTRIAN COUNTDOWN INDICATOR <i>Installation of indicators in progress</i>	45,000	22,281	22,719			Barnes
38	2691-020-Q310	PEDESTRIAN OVERCROSSING <i>95% plans and specs complete</i>	1,436,578	193,469	1,243,109	1,315,098	2691	Dion
39	1410-430-Q207	PELANDALE - REIMBURSE FOR ROW	110,000	0	110,000			Phillips
40	1410-160-E689	PELANDALE CCTV/FIBER OPTICS118 <i>Design 65% complete.</i>	425,000	29,517	395,483			Murphy
41	1410-160-E740	PELANDALE INTERCHANGE	1,329,000	2,313	1,326,687			Vohra
42	1410-430-N496	PELANDALE INTERSECTION IMPROVE	3,872,334	3,648,426	223,908			Phillips

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EXHIBIT C
BUDGET ADOPTION ORDINANCE

ID #	Project #	Description/Status	Funding Approved	Inception to date Expenses & Encumb	Available as of 4/5/2006	Additional Funding Requested	Funding Source	Project Manager
TRAFFIC- Continued								
43	1410-430-A159	PELANDALE MCHENRY PROJECT STUDY	300,000	53,442	246,558			Phillips
44	1410-430-H592	REIMBURSE DEV FOR IMPROVEMENTS <i>Awaiting developer requests for reimbursement.</i>	30,000	0	30,000			Phillips
45	2691-020-A114	ROSELLE&FLOYD INTERSECTION CTRL,RD WIDE <i>Design is nearly complete, ROW negotiations are continuing</i>	3,233,620	81,495	3,152,125	1,324,070	2691	Dion
46	0700-430-Q002	RSTP COFFEE:SYLVAN-MABLE (108) <i>Construction punch-list</i>	1,640,021	1,348,615	291,406			Phillips
47	2300-160-A009	SCENIC/LAKEWOOD LIGHT XWLK(111)	30,000	24,858	5,143			Hom
48	2300-160-A010	SHARON/MAID MARIANNE RDBT(112)	240,000	201,011	38,989			Hom
49	2680-020-A102	SNYDER AVE (PRESCOTT & CARVER) <i>Design nearly complete, insufficient funding for construction per budget adjustment approved by Council on 3/7/06.</i>	46,000	42,223	3,777	(456,000)	2680	Dion
50	1410-430-M188	SR132 PHASE I CITY CONTRIBUTION.	1,025,000	0	1,025,000			Ulm
51	2691-020-X507	SS SYLVAN BETWEEN ROSELLE/MILLBROOK <i>Project currently under construction</i>	1,640,200	2,904	1,637,296			Dion
52	2370-160-E328	STREET LIGHTING & HIGH CIRCUIT <i>Ongoing project</i>	106,314	0	106,314			Keys
53	2691-020-Q312	SYLVAN/ROSELLE INTERSECTION <i>95% plans and specs complete</i>	2,288,666	66,297	2,202,369	1,640,511	2691	Dion
54	2691-020-Q317	SYLVAN-SO. BET. OAKDALE/WOOD S <i>Developer installed improvement, reimbursement pending</i>	46,461	0	46,461			Dion
55	2691-020-Q311	SYLVAN-S SIDE SYMPHONY PARK <i>Project currently under construction</i>	819,475	482,160	337,315			Dion
56	2370-160-E632	SIGNAL MODIFY 12TH/LA LOMA(117) <i>Design 95% complete</i>	320,000	12,242	307,758			Sandeep
57	2300-160-N062	TRAFFIC COORDINATION DOWNTOWN (100) <i>Final Report to be completed.</i>	256,458	181,376	75,082			Murphy
58	0700-480-L116	TRAFFIC OPS CORPORATION YARD RELOCATION <i>On hold pending identifying additional funding to complete project</i>	543,771	406,197	137,574			Milano
59	1410-160-E695	TULLY, MT. VERNON, COLDWELL <i>Equipment on order.</i>	50,000	13,591	36,409			Murphy
60	2370-160-E697	TULLY/WOODROW <i>Project under construction by City Forces.</i>	120,000	0	120,000			Barnes
61	1410-160-A154	WOODLAND INTERSECTION IMPROVEMENTS 9&CARVER <i>Project split of forward with Carpenter intersection as 9th is delayed by R/R permit.</i>	860,000	43,456	816,544			Barnes

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EXHIBIT C
BUDGET ADOPTION ORDINANCE

ID #	Project #	Description/Status	Funding Approved	Inception to date Expenses & Encumb	Available as of 4/5/2006	Additional Funding Requested	Funding Source	Project Manager
TRAFFIC - PRIMARY/SECONDARY PROJECTS								
62	1410-430-E298	EXPAND ADVANCE TRAF MGMT SYSTEM <i>Primary project account.</i>	624,409	0	624,409			Barnes
63	2370-430-H475	FED FUNDED PAVEMENT MTC-PRIMARY <i>Primary Project</i>	196,562	0	196,562			Phillips
64	2370-430-H404	FED PAVEMENT MAINTENANCE 9TH, H, I SECONDARY <i>Newly created 2/7/06</i>	322,607	0	322,607			Phillips
65	2370-430-H580	SYLVAN/MCHENRY/COFFEE(SEC) (123)	398,271	139,224	257,047			Phillips
66	1410-160-E738	NEIGH TRAFFIC CALMING-PRIMARY <i>Primary project - secondary projects have not been programmed.</i>	25,000	0	25,000			Barnes
67	1410-430-H420	NW MODESTO STREET IMPROVEMENT <i>Primary Project</i>	0	0	0			Phillips
68	1410-430-H461	6 LNS DALE TO MCHENRY-SECONDARY <i>65% Design submittal under review</i>	9,409,056	703,973	8,705,083			Dumas
69	1410-430-H421	BANGS/PRESCOTT ST IMPROVEMENT <i>Project design underway - anticipated completion 6/06.</i>	475,000	2,537	472,463			Dumas
70	1410-430-H422	DALE/PELANDALE ST IMPROVEMENT <i>Final design complete-project out to bid as part of Kaiser remote offsite roadwork.</i>	440,000	44,368	395,632			Dumas
71	1410-430-H424	PELANDALE SISK TO 99 IMPROVE <i>95% Design submittal under review</i>	1,285,377	211,345	1,074,032	369,000	County	Dumas
72	1410-430-H423	PRESCOTT/PELANDALE ST IMPROVEMENT <i>Design in progress.</i>	85,000	2,844	82,156			Dumas
73	1410-430-H468	PLAN LINES - PRIMARY <i>Primary Project</i>	100,000	0	100,000			Phillips
74	1410-430-H716	CLARANTINA PLAN LINE - SECONDARY	25,000	16,221	8,779			Phillips
75	1410-160-E286	TRAFFIC CONTROL DEVICES -CFF <i>Primary Project- Secondary projects to be added as needed.</i>	1,322,309	0	1,322,309			Barnes
76	1410-160-E674	CLAUS SYLV/FLOYD/LINCOLN OAK-CARP/SEC <i>Newly created 2/28/06</i>	960,000	0	960,000			Barnes
77	1410-160-E678	ROSELLE HILLGELEN KODIAK SECONDARY <i>Newly created 2/28/06</i>	452,017	0	452,017			Barnes

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TRAFFIC - PRIMARY/SECONDARY PROJECTS-Continued								
78	2370-160-E602	TRAFFIC CONTROL DEVICES - Gas Tax <i>Primary Project Account - Secondaries to be added as needed</i>	395,541	0	395,541			Barnes
79	2370-160-E736	PEDESTRIAN/BICYCLIST SAFETY ENHANCEMENTS <i>Office of Traffic Safety Grant-design 40% complete.</i>	150,000	0	150,000			Barnes
80	2370-160-E645	ROUNDABOUT COL/BOWEN,KODIAK/TEM,MERLE SEC <i>Newly created 2/28/06</i>	617,401	0	617,401			Barnes
81	2370-160-E640	ROUNDABOUT KODIAK/LINCOLN OAK SECONDARY <i>Newly created 2/28/06</i>	222,983	0	222,983			Barnes
82	2370-160-E672	TRAFFIC SIGNAL NEW SISK/VINTAGE FAIRE <i>Newly created 2/28/06</i>	240,000	0	240,000			Barnes
83	2370-160-E646	TRAFFIC SIGNAL NEW J/16TH SECONDARY <i>Newly created 2/28/06</i>	35,000	0	35,000			Barnes
84	1410-160-E097	TRAFFIC CONTROL UPGRADES-CFF <i>Primary Project- Secondary projects to be added.as needed.</i>	1,759,406	0	1,759,406			Barnes
85	1410-160-E669	BRIGGS/MCHENRY LEFT TURN SECONDARY <i>Newly created 2/28/06</i>	250,000	0	250,000			Barnes
86	1410-160-E668	ORANGEBURG/MCHENRY RIGHT TURN SECONDARY <i>Newly created 2/28/06</i>	250,000	0	250,000			Barnes
87	1410-160-E677	UPGRADE SIGNALS BRIGGS/CAR SEC <i>Newly created 2/28/06</i>	158,177	0	158,177			Barnes
88	2370-160-E330	TRAFFIC CONTROL UPGRADES-GAS TAX <i>Primary Project Account - Secondaries to be established.</i>	382,020	0	382,020			Barnes
89	2370-160-E667	DETECTOR LOOPS SECONDARY <i>Newly created 2/28/06</i>	280,000	0	280,000			Barnes
90	2370-160-E662	LIGHTED CROSSWALKS-SECONDARY <i>Newly created 2/28/06</i>	212,380	0	212,380			Barnes
91	2370-160-E663	RAT CARP/STATE & SISK SECONDARY <i>Newly created 2/28/06</i>	1,100,000	0	1,100,000			Barnes
92	2370-160-E664	UPGRADE T/S 12/J&LALOMA/BUR SECONDARY <i>Newly created 2/28/06</i>	316,823	0	316,823			Barnes
AIRPORT								
93	6320-440-M275	AIRPORT EXPANSION & RESURFACING	1,522,500	1,388,783	133,717			Musca
94	6320-440-A008	AIRPORT TERM. PARKING LOT EXPANSION	744,444	24,098	720,346			Musca
TRANSIT								
95	6510-165-A044	AUTOMATED VEHICLE LOCATION SYSTEM	822,887	21,304	801,583			Cavanah
96	6510-165-J401	FY04-05 BUS PURCHASES(3) <i>Anticipate awarding a contract for 2 buses Fall 06.</i>	943,810	0	943,810			Cavanah
97	6510-165-N591	HYBRID ELECTRIC BUS <i>Bus is on order & expected to be delivered Dec 06.</i>	660,000	240	659,760			Cavanah
98	6510-165-B911	NEW BUS MAINTENANCE FACILITY <i>Project currently on hold pending solution to design problem.</i>	10,413,735	2,997,022	7,416,713			Cavanah
99	6510-165-A047	PURCHASE 1 COMMUTER BUS	450,000	0	450,000			Cavanah

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STORM DRAIN								
100	2691-020-X521	36" REINFORCE CONCRETE PIPE ALONG KODIAK DR <i>Being installed by developer per reimbursement agreement</i>	187,100	0	187,100			Dion
101	2691-020-X522	48" REINFORCE CONCRETE PIPE-KODIAK <i>Being installed by developer per reimbursement agreement</i>	363,000	0	363,000			Dion
102	6280-430-N686	9TH STREET STORM DRAINAGE <i>Current design-waiting for construction funding</i>	520,000	516,793	3,207			Phillips
103	2691-020-X531	CLAUS PARK STREET IMPROVEMENT <i>Storm drainage lines installed by School District per reimbursement agreement, remainder to be constructed by City</i>	415,100	0	415,100	38,500	2691	Dion
104	2641-020-X727	FAIRVIEW VILLAGE STORM DRAIN <i>Portion of project is being constructed by developer per reimbursement agreement</i>	1,340,000	664,992	675,008			Dion
105	2750-020-X510	INSTALL STORMDRAIN BASIN LANDSCAPE <i>Project cannot begin until ultimate basin is constructed.</i>	63,000	0	63,000			Dion
106	2680-020-Q318	STORMDRAIN BASINS PUMP ST <i>Construction to begin April 2006</i>	2,134,425	249,653	1,884,772			Dion
107	6280-440-Q231	STORM DRAIN MASTER PLAN <i>Ongoing</i>	525,000	515,095	9,905			Bond
108	6280-430-A213	STORM DRAINAGE SYSTEM ANALYSIS	125,000	88,318	36,682	100,000	6210	Bond

WATER

109	6180-430-W414	TURLOCK IRRIG DIST(TID) SURFACE H2O SUPPLY PROJ <i>In progress</i>	60,000	0	60,000	350,000	6180	Bond
110	6180-430-W410	URBAN WATER MANAGEMENT	158,320	125,611	32,709	25,000	6180	Bond
111	6180-480-W445	UTILITY CUTS STREETS (W569) <i>Utility cut repairs made on request by City Streets crews. Project is ongoing until funding runs out.</i>	264,000	256,572	7,428	264,000	General Fund	Brusca
112	6180-430-W439	WATER MASTER PLAN <i>Project is in progress.</i>	300,000	0	300,000			Bond

WATER - PRIMARY/SECONDARY PROJECTS

113	6180-430-W425	DOWNSTREAM IMPROVEMENTS-PRIMARY <i>See Secondaries: Anything funded here for 06-07 will be reimbursed by the bond when funded</i>	0	0	0			Phillips
114	6180-430-W361	DOWNSTREAM IMPROVEMENTS PROJECTS <i>Newly created 11/16/05--Additional funding needed prior to 10/06 for installation of PRV's. Funding will be reimbursed by Bond funding when received.</i>	150,000	0	150,000	1,250,000	bond required	Phillips
115	6180-430-W363	CITY DOWNSTREAM IMPROVEMENT TIER 1 <i>Newly created 11/16/05--ROW purchase in progress</i>	1,250,000	0	1,250,000			Phillips
116	6180-430-A202	MRWTP PHASE2 EXP DISTRIB IMPROVEMENT <i>Project in progress.</i>	2,563,535	2,542,195	21,340			Phillips

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WATER - PRIMARY/SECONDARY PROJECTS								
117	6180-480-W426	EXTEND WATER MAINS-PRIMARY <i>Primary Project -see Secondaries</i>	132,061	0	132,061	125,000	6180	Lagarbo
118	6180-480-W611	EXTEND WATER MAINS-GALLO PAC 2ND <i>Project complete.</i>	60,000	16,859	43,141			Lagarbo
119	6180-480-W610	EXTEND WATER MAINS-NEW DEV 2ND	187,699	167,213	20,486			Lagarbo
GROUNDWATER MANAGEMENT-PRIMARY								
120	6180-430-W440	GROUNDWATER MANAGEMENT-PRIMARY <i>Primary Project -see Secondaries</i>	0	0	0	50,000	6180	Bond
121	6180-430-W620	STRGBA-GWMP SECONDARY	89,302	42,345	46,958			Bond
122	6180-430-W621	TGBA-GWMP SECONDARY	5,000	2,112	2,888			Bond
H2O SYS SECURITY ENHANCE-PRIMARY								
123	6180-480-W435	H2O SYS SECURITY ENHANCE-PRIMARY <i>Primary Project -see Secondaries</i>	65,000	0	65,000	25,000	6180	Lagarbo
124	6180-480-W605	SECURITY (VULNERABLE ASSESSMT) CODONI SITE 2ND <i>Project in progress. Anticipate completion in Sept. 2006.</i>	26,750	15,009	11,741			Damas
125	6180-480-W603	SECURITY (VULNERABLE ASSESSMT) TANK 5 SITE 2ND <i>Project in progress. Anticipate completion Aug. 2006.</i>	13,500	2,176	11,324			Damas
126	6180-480-W604	SECURITY (VULNERABLE ASSESSMT) TANK 6 SITE 2ND <i>Project in progress. Anticipate completion in July 2006.</i>	11,693	9,098	2,595			Damas
127	6180-480-W719	SECURITY (VULNERABLE ASSESSMT) TANK 7 SITE 2ND <i>Project in progress. Anticipate completion in Aug. 2006.</i>	13,500	531	12,969			Damas
128	6180-480-W723	SECURITY (VULNERABLE ASSESSMT) WELL 14 SITE 2ND <i>Project in progress. Anticipate completion in Sept. 2006.</i>	13,500	206	13,294			Damas
129	6180-480-W721	SECURITY (VULNERABLE ASSESSMT) WELL 2 SITE 2ND <i>Project in progress. Anticipate completion in Sept. 2006.</i>	13,500	1,344	12,156			Damas
130	6180-480-W724	SECURITY (VULNERABLE ASSESSMT) WELL 25 SITE 2ND <i>Project in progress. Anticipate completion in Sept. 2006.</i>	13,500	909	12,591			Damas
131	6180-480-W722	SECURITY (VULNERABLE ASSESSMT) WELL 7 SITE 2ND <i>Project in progress. Anticipate completion in Sept. 2006.</i>	13,500	0	13,500			Damas
132	6180-480-W607	WATER SECURITY SYSTEM-SECONDARY <i>Project in progress. Anticipate completion in July 2006.</i>	163,340	155,354	7,986			Lagarbo
INSTALL NEW WELLS-PRIMARY								
133	6180-480-W441	INSTALL NEW WELLS-PRIMARY <i>Primary Project -see Secondaries</i>	1,473,102	0	1,473,102			Phillips
134	6180-480-W442	FREEDOM PARK W62-SECONDARY <i>Project in progress.</i>	1,073,801	964,717	109,084			Phillips
135	6180-480-W443	MCKINNEY COLONY W64-SECONDARY <i>Well construction complete. Pump station RFP in progress.</i>	1,490,900	208,901	1,281,999			Phillips
136	6180-480-W729	MILDRED PERKINS W63-SECONDARY <i>Design complete. Well RFP in progress.</i>	181,901	32,088	149,813			Phillips
137	6180-480-W624	WATERFORD WELL TESTING-SECOND <i>Project in progress.</i>	120,000	1,423	118,577			Phillips

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WATER - PRIMARY/SECONDARY PROJECTS-Continued								
138	6180-430-W436	WATER SYSTEM ANALYSIS-PRIMARY <i>Primary Project -see Secondaries</i>	29,025	0	29,025	100,000	6180	Bond
139	6180-430-W708	GALAS WATER CAPACITY STUDY 2ND <i>Project is in progress.</i>	82,975	82,475	500			Bond
140	6180-430-W608	MODESTO H2O SYSTEM ANALYSIS-SECONDARY <i>Project is ongoing.</i>	55,000	51,974	3,026			Bond
141	6180-430-W609	OUTLYING H2O SYSTEM ANALYSIS-SECONDARY <i>Project is ongoing.</i>	33,000	347	32,653			Bond
142	6180-480-W433	PURCHASE/INSTALL GENERATOR <i>Primary Project - Cost per unit = \$150,000.</i>	71,593	0	71,593	80,000	6180	Lagarbo
143	6180-480-W455	REPLACEMENT PUMPS-PRIMARY <i>Primary Project -see Secondaries - Maintenance Work</i>	0	0	0	40,000	6180	Lagarbo
144	6180-480-W622	REPLACE PUMPS-MODESTO-SECONDARY <i>Ongoing project.</i>	209,129	80,742	128,387			Lagarbo
145	6180-480-W623	REPLACE PUMPS-OUTLYING-SECONDARY <i>Ongoing project.</i>	61,000	49,910	11,090			Lagarbo
146	6180-480-W376	S MODESTO PUMP STATION (SECONDARY) <i>Newly created 12/6/2005--Project in progress.</i>	338,580	104,213	234,367			Lagarbo
147	6180-480-W704	SALIDA RESIDENTIAL METERS 2ND <i>Project is 90% complete.</i>	213,000	141,511	71,489			Richter
148	6180-480-W428	STRENGTH/REPLACE H2O SYS-PRIMARY <i>Primary Project -see Secondaries</i>	184,939	0	184,939	250,000	6180	Lagarbo
149	6180-480-W449	HICKMAN SYS IMPROVE SEC (W428) <i>Newly created 12/6/2005</i>	54,510	10,471	44,039			Lagarbo
150	6180-480-W464	LEO AVE SYS IMPROVEMENT (SEC) W428 <i>Newly created 3/3/2006</i>	5,000	0	5,000			Lagarbo
151	6180-480-W615	MODESTO SYSTEM IMPROVEMENT-SECONDARY <i>Project in progress.</i>	342,766	294,128	48,638			Lagarbo
152	6180-480-W616	OUTLYING SYSTEM IMPROVEMENT-SECONDARY <i>Project in progress. Hickman 90% complete.</i>	218,347	214,106	4,241			Lagarbo
153	6180-480-W614	WATERFORD SYSTEM IMPROVEMENT-SECONDARY <i>Funded. Project in progress. Anticipated completion May 2006.</i>	268,971	6,412	262,559			Lagarbo
154	6180-480-W706	WATER SYSTEM SAFETY 2ND	20,000	19,893	107			Lagarbo
155	6180-480-W438	TANK IMPROVEMENTS-PRIMARY <i>Primary Project -see Secondaries</i>	2,500	0	2,500	50,000	6180	Lagarbo
156	6180-480-W427	TANK 3 INTERIOR COATING-SECONDARY <i>Project in progress. Inspection of tank complete. Anticipated completion Aug. 2006.</i>	47,500	0	47,500			Lagarbo
157	6180-480-W416	WATER METERS PRIMARY <i>Primary Project -see Secondaries</i>	1,028,893	0	1,028,893			Richter
158	6180-480-W703	HICKMAN RESIDENTIAL METERS 2ND <i>Project to commence in May 2006.</i>	47,500	0	47,500			Richter
159	6180-480-W381	MODESTO RESIDENTIAL H2O METERS (SEC) W416 <i>Newly created 3/16/06</i>	250,000	0	250,000			Richter
160	6180-480-W702	WATERFORD RESIDENTIAL METERS2ND	209,000	0	209,000			Richter

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WATER - PRIMARY/SECONDARY PROJECTS-Continued								
161	6180-430-W415	WATER QUALITY STUDY (PRIMARY) <i>Deferred in 05-06/re-instate 06-07?</i>	0	0	0			Bond
162	6180-430-W430	WELLHEAD TREATMENT-PRIMARY <i>Primary Project -see Secondaries</i>	294,879	0	294,879	1,600,000	6180	Phillips
163	6180-430-W730	CALIFORNIA W283 BLENDING LINE-SECOND <i>Project in progress.</i>	54,000	5,000	49,000			Damas
164	6180-430-W742	SECONDARY-WELL 236 BLEND LINE <i>Project in progress.</i>	37,000	8,167	28,833			Phillips
165	6180-430-W601	WELL 226 ARSENIC PILOT-SECONDARY <i>Project complete. Awaiting final invoices from contractor(s).</i>	8,560	4,000	4,560			Damas
166	6180-430-W593	WELL 53 BLENDING LINE 2ND <i>Project in progress</i>	28,000	0	28,000			Phillips
167	6180-430-W717	WELL CONTAMINANT STUDY 2ND <i>Project is ongoing.</i>	60,000	55,514	4,486			Phillips
168	6180-430-W368	WELLHEAD TREATMENT W21 PCE-SECONDARY <i>Newly created 10/25/05--GAC installed; Block Wall under construction. Current funding available will cover costs.</i>	1,237,901	518,036	719,865			Phillips
169	6180-430-W720	WELLHEAD TREATMENT W66 GALAS 2ND <i>Project in progress.</i>	22,000	20,132	1,868			Damas
170	6180-430-W370	WELLHEAD TREATMENT W8 PCE-SECONDARY <i>Newly created 11/3/2005--Well complete; Fence, Pad, Paint in progress. Anticipate completion in July 2006.</i>	164,972	138,235	26,737			Phillips
171	6180-430-W714	WELLHEAD TREATMENT WELL#3 2ND <i>Project underway. Anticipate completion by July 2006.</i>	121,000	74,770	46,230			Phillips
172	6180-430-W705	WHITMORE/W55 BLENDING LINE <i>Project in progress.</i>	270,000	204,140	65,860			Damas
173	6181-480-W336	S. MODESTO INTERIM WTR IMPROVEMENT <i>Newly created 11/8/2005--Primary Project - see Secondaries</i>	0	0	0			Lagarbo
174	6181-480-W353	LASSEN WATERLINE INSTALL-SECOND <i>Newly created 11/18/2005--Construction complete.</i>	344,590	146,822	197,768			Lagarbo
175	6181-480-W339	TANK 6 IMPROVEMENTS-SECONDARY <i>Newly created 11/17/2005--Construction underway. Approximately 30% complete. Anticipate completion in June 2006.</i>	407,550	212,404	195,146			Lagarbo
176	6181-480-W342	TANK 7 IMPROVEMENTS-SECONDARY <i>Newly created 11/18/2005--Construction underway. Approx. 30% complete. Anticipate completion in June 2006.</i>	344,850	199,519	145,331			Lagarbo
177	6181-480-W352	TANK 8 IMPROVEMENTS-SECONDARY <i>Newly created 11/18/2005--Construction underway. Approximately 10% complete. Anticipate completion in June 2006.</i>	395,010	241,726	153,284			Lagarbo

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WASTEWATER								
178	6210-430-B627	2005 ANNUAL SEWER REHAB <i>Currently out to bid-construction this summer 2006</i>	854,320	42,624	811,696			Phillips
179	6210-480-M244	CANNERY SEGREGATION - LAND ACQUISITION	1,739,000	57,443	1,681,557			Musca
180	6210-430-A049	CELESTE/ROSE/SCENIC SEWER IMPROVEMENTS	4,780,000	4,371,793	406,207			Phillips
181	6210-480-B574	COLLECTION SYSTEM REHAB (5224) <i>Primary Project</i>	727,520	0	727,520			Souza
182	6210-430-A215	DAF DISSOLVED AIR FLOTATION <i>Design near 100% complete-awaiting construction funds</i>	613,174	579,624	33,550			Phillips
183	6210-430-A209	ENGINEERING SYSTEM ANALYSIS	146,386	22,883	123,503	100,000	6210	Bond
184	6210-480-J590	EQUIPMENT FOR WWC BLDG	83,859	83,674	185			Denlinger
185	2641-020-X726	FAIRVIEW VILLAGE WASTE H2O SYS <i>Portion of project is being constructed by developer per reimbursement agreement</i>	383,000	45,662	337,318			Dion
186	6210-430-B609	LA LOMA SEWER LIFT STATION <i>Current design project</i>	270,176	161,894	108,282			Phillips
187	6210-430-B490	ROSE/CELESTE SEWER LIFT ST <i>Under construction</i>	2,320,563	553,702	1,766,861			Phillips
188	6210-430-B491	SCENIC SEWER LIFT STATION <i>Current design project</i>	912,290	49,682	862,608			Phillips
189	6210-430-N143	SHACKLEFORD CROSSING <i>Current design - investigating realignment of existing pipe.</i>	155,000	50,304	104,696			Phillips
190	6210-480-B618	UTILITY CUTS REPAVEMENT	228,000	802	227,198			Brusca
191	6210-480-Q235	VILLAGE ONE-EXTEND SUBTRUNKS <i>Current design at Floyd/Roselle</i>	360,000	159,508	200,492			Phillips
192	6210-430-A208	WASTEWATER MASTER PLAN UPDATE	2,146,813	2,129,799	17,014	100,000	6210	Bond
193	6210-430-B721	WW RATE ANALYSIS ENG REPORT	127,048	127,048	0	50,000	6210	Bond

WASTEWATER - PRIMARY/SECONDARY PROJECTS								
194	6210-480-B575	ANNUAL LIFT STATION REHAB 5225 <i>Primary - will have secondaries B437 Jefferson Lift Station & B446 Coffee Clarantina Lift Station each for \$55427</i>	110,854	0	110,854			Souza
195	6210-480-B576	ANNUAL REPAIR&REPL SITE 5226 <i>Primary Project</i>	108,196	0	108,196			Denlinger
196	6210-480-B587	FIXED FILM REACTOR PUMPS - SECONDARY <i>In process</i>	23,019	18,019	5,000			Denlinger
197	6210-480-B337	GRIT CLASSIFIER <i>Newly created 11/16/2005</i>	36,486	34,697	1,789			Denlinger
198	6210-480-B584	WQC LAB REMODEL- SECONDARY <i>To Council 5/2/06 for bids to go out</i>	500,000	17,250	482,750			Denlinger
199	6210-480-B577	ANNUAL REPAIR&REPL SEC SITE 5227 <i>Primary Project</i>	0	0	0			Denlinger
200	6210-480-B589	R&R STORAGE POND1 LIFT STATION PUMP1 -SEC <i>Purchase Orders issued</i>	135,908	0	135,908			Denlinger
201	6210-480-B588	R&R TAIL WATER M ST. SECONDARY <i>In process</i>	80,000	1,535	78,465			Denlinger

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PARKS								
202	2300-310-A012	1230 12TH STREET RETROFIT <i>Ongoing</i>	557,250	102,785	454,465			Hannon
203	2300-310-A080	BRIGGSMORE/99 BEAUTIFICATION <i>ongoing - Cal Trans review underway</i>	1,375,000	158,582	1,216,418			Critchfield
204	2300-310-Q240	CONANT/RUMBLE SIDEWALK IMPROVE <i>Ongoing</i>	350,000	263,151	86,849			Hannon
205	1350-310-A081	CREEKWOOD PARK SHADE STRUCTURE <i>Ongoing - construction scheduled for summer 2006</i>	75,000	7,773	67,227			Critchfield
206	1350-310-Q233	FREEDOM NEIGHBORHOOD PARK <i>Construction underway - completion slated for Spring 2007</i>	2,559,701	2,171,256	388,445			Critchfield
207	1400-310-P504	GEO A ROGERS PARK P3(ORWRIGHT) <i>Money is being held for future Basketball Courts, Shade Structure and Skate Park</i>	74,000	92	73,908			Critchfield
208	6600-330-P391	GOLF CAPITAL IMPROVEMENTS <i>Newly created 11/22/05--Ongoing needs for Golf Improvements</i>	88,000	0	88,000			Critchfield
209	2300-310-A013	HILLSIDE DR IMPROVEMENT KERR/S SANTA CR <i>Ongoing</i>	55,000	32,694	22,306			Hannon
210	1400-310-M185	INFRASTRUCTURE PRESERVATION <i>Ongoing - Amounts to be adjusted net = 0</i>	1,123,000	1,093,789	29,211			Critchfield
211	2330-320-P434	IRRIGATION SYSTEM @ MELLIS PARK <i>Newly created 1/10/06 - Ongoing</i>	150,000	0	150,000			Hannon
212	2330-310-P500	KING KENNEDY KITCHEN & AUDITORIUM <i>Plans are in design</i>	350,000	53,509	296,491			Critchfield
213	2300-310-M182	MADDUX YOUTH CENTER IMPROVEMENT <i>Grand Opening June 16, 2006</i>	3,222,262	2,990,845	231,417			Critchfield
214	2300-310-N112	MARK TWAIN PICNIC AREA <i>Project completed - state has been invoiced</i>	55,000	37,676	17,324			Critchfield
215	1350-310-P501	MARY E GROGAN COMMUNITY PARK <i>Construction documentation slated to begin in FY 06-07</i>	588,000	5,006	582,994			Critchfield
216	2330-310-P502	MONTEROSSO TRAILHEAD (069) <i>Construction to begin Summer 2006</i>	527,000	90,045	436,955			Critchfield
217	1300-310-M163	NEIGHBORHOOD CENTER MARSHALL PARK <i>Bid Complete. Construction June 2006 to August 2007 Ground Breaking June 1, 2006</i>	5,408,917	313,567	5,095,350			Critchfield
218	1350-310-P503	NEW PARKLAND ACQUISITION <i>Ongoing</i>	1,865,485	0	1,865,485			Critchfield
219	2300-310-N442	PLAY EQUIPMENT UPGRADES <i>Ongoing - scheduled for completion summer 2006</i>	500,000	331,349	168,651			Critchfield
220	1400-310-P734	PARK PARTNERS <i>ongoing</i>	89,840	5,018	84,822			Critchfield
221	1400-310-P493	PARK SYSTEM IMPROVEMENTS <i>Newly created 3/21/06--Slated for park preservation activites</i>	340,000	0	340,000			Critchfield
222	2330-320-P432	REMOVE WATER TOWER 17TH AND G <i>Newly created 1/10/06 - Ongoing</i>	150,000	0	150,000			Hannon
223	1350-310-P402	SANDERS NEIGHBORHOOD PARK <i>Construction will begin in Fall 2006</i>	1,683,000	186,076	1,496,924			Critchfield
224	1400-310-P733	SCHOOL FACILITIES INFRASTRUCTURE <i>Ongoing</i>	463,511	103,368	360,143			Critchfield

Capital Improvement Program
FY2006-2007
Interim

EXHIBIT C
BUDGET ADOPTION ORDINANCE

ID #	Project #	Description/Status	Funding Approved	Inception to date Expenses & Encumb	Available as of 4/5/2006	Additional Funding Requested	Funding Source	Project Manager
PARKS-Continued								
225	1350-310-P406	STOCKARD COFFEE SHADE STRUCTURE <i>Newly Created 1/24/06 --Ongoing - construction scheduled for summer 2006</i>	55,350	2,050	53,300			Critchfield
226	1350-310-M178	SUTTON COMMUNITY PARK <i>Construction Documentation will begin in FY10-11</i>	542,000	112,526	429,474			Critchfield
227	8910-310-N441	TRRP, GATEWAY PROJECT <i>Ongoing</i>	1,551,750	522,912	1,028,838			Critchfield
228	2691-020-X518	USTACH PARK CONSTRUCTION <i>Project complete, reimbursement due to PRN</i>	225,000	0	225,000			Dion
PARKS - PRIMARY/SECONDARY PROJECTS								
229	1350-310-P331	LIGHTING PLAYGROUNDS & SHADE S <i>Primary Project</i>	0	0	0			Critchfield
230	1350-310-P380	PHASE 1 LIGHTING PLAYGROUND SHADE <i>Construction will begin in Fall 2006. Includes lighting for Riverside, Creekwood, Robertson Road Parks and Martone Tot Lot</i>	290,896	1,388	289,508			Critchfield
231	2300-310-A087	VIRGINIA CORRIDOR PHASE I CONS <i>Primary Project</i>	600,881	239,485	361,396			Critchfield
232	2300-310-P712	VIRGINIA CORRIDOR PHASE II <i>Rotary Centennial Junction Grand Opening July 15, 2006</i>	742,826	254,556	488,270			Critchfield
233	2300-310-P713	VIRGINIA CORRIDOR PHASE III <i>Stated to begin July 2006</i>	3,254,091	335,286	2,918,805			Critchfield
234	0520-160-N045	VIRGINIA CORRIDOR, SAFE SCHOOLS (101) <i>Under construction</i>	490,000	485,407	4,593			Phillips
INFORMATION TECHNOLOGY								
235	7130-070-M483	CAD-COMPUTER AIDED DISPATCH <i>Evaluations, site visits, and analysis of the top three vendors has been completed. City/County is currently finalizing vendor selection.</i>	0	0	0			Beckler
236	7130-070-M480	FINANCIAL SOFTWARE UPGRADE <i>Currently seeking a contractor that will assist with preparation of detailed ERP systems requirements and RFP creation. Complete funding solutions are still being identified. Staff is also in the process of implementing interim improvements including business license and cashiering upgrade, as well as adding web-based utility bill capabilities.</i>	300,000	34,603	265,397			Beckler
237	7130-070-M481	INET - FIBER NETWORK <i>Fiber construction is complete. All monies from participants has been received. Comcast has been paid. All sites (3 exceptions) have been connected to INET and are functional. Furthering partnerships with schools for wireless and video capabilities to broaden functionality.</i>	500,000	322,349	177,651			Beckler

Capital Improvement Program
 FY2006-2007
 Interim

EXHIBIT C
 BUDGET ADOPTION ORDINANCE

ID #	Project #	Description/Status	Funding Approved	Inception to date Expenses & Encumb	Available as of 4/5/2006	Additional Funding Requested	Funding Source	Project Manager
INFORMATION TECHNOLOGY-Continued								
238	7130-070-M494	MICROSOFT EXCH. PLATFORM MIGRATION <i>Newly created 3/14/2006</i>	330,000	0	330,000			Beckler
239	7130-070-M482	WIRELESS NETWORK <i>Staff has performed extensive evaluation of wireless technologies and seven separate vendors. Currently in final review stages of an additional vendor and their technology; extensive 90-day public safety testing. Currently seeking funding to begin this project.</i>	0	0	0			Beckler

MISCELLANEOUS

240	1300-430-K859	CORPORATION YARD LAND ACQUISITION	17,137	7,995	9,142			Cavanah
241	1300-120-Q237	COUNTER RECONSTRUCTION <i>In Design Stage</i>	200,000	28,755	171,245			Detmar
242	7200-480-H028	FLEET MAINTENANCE FACILITY	1,006,124	239,208	766,916			Turner
243	0800-140-L092	KIERNAN BUS PARK STORM DR STUDY <i>Pending</i>	50,000	60	49,940			Boston

REDEVELOPMENT

244	9060-140-Q244	DOWNTOWN AFFORDABLE HOUSING LAND ACQUISITION <i>Tower Park subject to acquisition before June 2005.</i>	4,470,190	62,396	4,407,794			Boston
245	9080-140-Q260	GALLO ARTS CENTER ST. IMPROVEMENT. <i>Might anticipate an additional request for funding.</i>	602,000	1,613	600,387			Boston
246	9080-140-Q246	KANSAS AVE BP CONCEPT MASTER PLAN <i>Ongoing</i>	605,000	449,689	155,311			Boston
247	9080-140-Q243	KANSAS AVE. BUS/PARK PROP. OPT <i>Ongoing</i>	100,000	50,000	50,000			Boston
248	9080-140-K732	RDA PUBLIC IMPROVEMENTS <i>Ongoing</i>	734,281	0	734,281			Boston

Fund: 6310
CIP #: A784
Project Title: New Airport Storage Hangars

Start Date: 2006
End Date: 2007
Status: New
Category: Airport
Type: Airport Improvements
Area: Within City
Manager: Michael Musca

Description: This project provides funding for Engineering Design to provide a cost estimate and description of project scope. Possible FAA grant funding for site prep, drainage and demo of some existing hangar structures.

Expenditure Plan	Life to Date	2006-07	2007-08	2008-09	2009-10	2010-17	Future Yrs	Project Total
Management Design		\$ 30,000						\$ -
Engineering Right-of-Way Construction		\$ 170,000						\$ -
Total Cost	0	\$ 200,000	0.0	0.0	0.0	0.0	0.0	\$ 200,000
Financing Plan	Life to Date	2006-07	2007-08	2008-09	2009-10	2010-17	Future Yrs	Project Total
Airport Fund Reserves		\$ 200,000						\$ 200,000
Total	0	\$ -	0.0	0.0	0.0	0.0	0.0	\$ 200,000
Funding Gap	0	\$ -	0.0	0.0	0.0	0.0	0.0	0.0

Fund: 6310
CIP #: A785
Project Title: Airport Irrigation Well

Start Date: 2006
End Date: 2007
Status: New
Category: Airport
Type: Airport Improvements
Area: Within City
Manager: Michael Musca

Description: This project provides funding for Engineering Design to provide a cost estimate and produce an RFP for a 300-400 gpm irrigation well site near the Modesto Fire Department Station No. 8 on Airport Way median strip. Future installation of an irrigation well will allow the airport to switch over from using City water for irrigation of airfield green space.

Expenditure Plan	Life to Date	2006-07	2007-08	2008-09	2009-10	2010-17	Future Yrs	Project Total
Management Design		\$ 10,000						\$ -
Engineering Right-of-Way Construction		\$ 80,000						\$ -
Total	0	\$ 100,000	0	0	0	0	0	\$ 100,000
Financing Plan	Life to Date	2006-07	2007-08	2008-09	2009-10	2010-17	Future Yrs	Project Total
Airport Fund Reserves		\$ 100,000						\$ 100,000
Total	0	\$ 100,000	0	0	0	0	0	\$ 100,000
Funding Gap	0	\$ -	0	0	0	0	0	0

**EXHIBIT C
BUDGET ADOPTION ORDINANCE**

Fund: 2691
CIP #: X539

Start Date: 2006
End Date: 2008
Category: Traffic
Type: CFD
Location: Village One
Manager: Vickey Dion

Project Title: Sylvan/Claus Intersection Improvements (INT-011)

Description: Project scope includes acquisition of the necessary right-of-way and construction of intersection improvements at Sylvan Avenue and Claus Road.

Expenditure Plan	Life to Date	2006-07	2007-08	2008-09	2009-10	2010-17	Future Yrs	Project Total
Design (6010)		\$73,900						\$73,900
ROW (6030)		\$150,000						\$150,000
Construction (6040)		\$739,400						\$739,400
Contingency (6050)		\$110,900						\$110,900
Const. Admin (6060)		\$73,900						\$73,900
Total		\$0	\$1,148,100	\$0	\$0	\$0	\$0	\$0
Total		\$0	\$1,148,100	\$0	\$0	\$0	\$0	\$1,148,100
Funding Gap		\$0	\$0	\$0	\$0	\$0	\$0	\$0

Fund: 2691
Cip #: X541

Start Date: 2006
End Date: 2006
Category: MISC
Type: CFD
Location: Village One
Manager: Vickey Dion

Project Title: Recoup of Planning Costs (M-001C)

Description: Recover a portion of the cost incurred by the City of Modesto to prepare the Village One planning documents.

Expenditure Plan	Life to Date	2006-07	2007-08	2008-09	2009-10	2010-17	Future Yrs	Project Total
Design (6010)								\$0
ROW (6030)								\$0
Construction (6040)		\$190,000						\$190,000
Contingency (6050)								\$0
Const. Admin (6060)								\$0
Total		\$0	\$190,000	\$0	\$0	\$0	\$0	\$0
Total		\$0	\$190,000	\$0	\$0	\$0	\$0	\$190,000
Funding Gap		\$0	\$0	\$0	\$0	\$0	\$0	\$0

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

Multi-Year Operating Programs (Existing as of May 30, 2006)

Fd	Agy	Org	Desc	Obj	Current	Encumb	Expend	Avail
0100	190	1907	BEAT HEALTH PD/CDD	0110	56,450	0	0	56,450
				0218	4,300	0	0	4,300
				0308	39,250	0	443	38,807
					100,000	0	443	99,557
0330	480	4714	DEVELOPER TREES	0235	10,000	0	2,400	7,600
				0255	41,415	0	5,742	35,673
				0310	80,000	6,800	29,637	43,563
					131,415	6,800	37,779	86,837
0400	190	2902	06 BJAG GRANT	5926	116,260	0	0	116,260
					116,260	0	0	116,260
	190	2987	2002 COPS MORE GRANT	5401	153,388	0	0	153,388
					153,388	0	0	153,388
	190	2988	02-03 STATE HIGH TECHNOLOGY GT	5924	0	0	74	<74>
					0	0	74	<74>
	190	2991	2003 SLESF GRANT	5435	80,557	6,110	49,135	25,312
					80,557	6,110	49,135	25,312
	190	2995	SLESF-HTE REFUND	5905	199	0	0	199
					199	0	0	199
	440	4419	BLOCK GRANT #9	0201	1,519	230	397	893
				0230	6,575	0	6,913	<338>
				0235	85	0	0	85
				0255	30	0	0	30
				8,209	230	7,309	670	
440	4423	DOC 04/05	0235	123	123	0	0	
			0237	2,475	2,417	49	9	
			0255	0	0	0	0	
				2,598	2,540	49	9	
440	4425	USED OIL BLK GRANT #10	0202	750	0	0	750	
			0230	10,118	5,003	1,883	3,232	
			0235	10,658	0	7,998	2,660	
			0255	34,270	0	25,149	9,121	
				55,796	5,003	35,031	15,763	
440	4427	DOC 05/06	0202	700	0	19	681	
			0230	7,347	5,000	0	2,347	
			0235	1,000	0	1,368	<368>	
			0237	34,036	9,430	21,217	3,389	
			0255	14,500	0	10,093	4,407	
				57,583	14,430	32,697	10,456	
440	4430	SOLID WASTE DISPOSAL ACT GRANT	0208	500	0	111	389	
			0237	21,150	4,516	0	16,634	
			0255	28,200	0	5,585	22,616	
				49,850	4,516	5,695	39,639	
0410	190	2901	AVOID THE 12	0130	126,448	0	38,324	88,124
				0207	24,000	0	8,106	15,894
				0240	315,106	0	2,942	312,164
				0255	15,000	0	0	15,000
				0259	0	0	0	0
				0308	27,000	0	0	27,000
				0356	8,500	0	8,451	49
				5500	0	0	0	0
				516,054	0	57,823	458,231	

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

Multi-Year Operating Programs (Existing as of May 30, 2006)

Fd	Agy	Org	Desc	Obj	Current	Encumb	Expend	Avail
	190	2903	SAFE NEIGHBORHOOD GRANTS PRO	0110	132,571	0	29,568	103,003
				0111	0	0	1,362	<1,362>
				0112	0	0	539	<539>
				0114	0	0	539	<539>
				0115	0	0	874	<874>
				0123	0	0	3,311	<3,311>
				0125	0	0	68	<68>
				0130	77,142	0	14,354	62,788
				0132	0	0	60	<60>
				0150	0	0	42	<42>
				0151	0	0	3,526	<3,526>
				0152	0	0	410	<410>
				0153	0	0	116	<116>
				0154	0	0	222	<222>
				0155	0	0	537	<537>
				0160	0	0	5,594	<5,594>
				0161	0	0	567	<567>
				0164	0	0	16	<16>
				0165	0	0	585	<585>
				0207	3,000	0	2,373	628
				0235	75,822	0	0	75,822
					288,535	0	64,662	223,873
190	2904		COPS 2005 TECHNOLOGY GRANT	5401	295,993	0	0	295,993
					295,993	0	0	295,993
190	2965		SAFE NEIGHBORHOOD GRANTS PRO	0110	132,571	0	0	132,571
				0130	77,142	0	0	77,142
				0132	0	0	0	0
				0150	0	0	0	0
				0151	0	0	0	0
				0152	0	0	0	0
				0153	0	0	0	0
				0154	0	0	0	0
				0155	0	0	0	0
				0160	0	0	0	0
				0161	0	0	0	0
				0164	0	0	0	0
				0207	3,000	0	0	3,000
				0235	75,822	0	0	75,822
					288,535	0	0	288,535
380	3827		04-05 TIRE AMNESTY TR43-04-3	0230	5,000	0	3,258	1,742
				0235	15,000	0	3,533	11,467
				0255	0	0	1,184	<1,184>
					20,000	0	7,976	12,024
440	4422		CHRYSLER PARK PLAYGROUND COV	0235	24,995	0	21,986	3,009
					24,995	0	21,986	3,009
440	4424		TIRE AMNESTY TR34-03-9	0230	2,187	0	1,436	751
				0235	7,027	0	2,810	4,217
					9,214	0	4,246	4,968
440	4426		REUSE ASSISTANCE GRANT	0230	10,000	0	4,000	6,000
				0237	38,286	0	22,189	16,097
				0235	1,714	0	3,692	<1,978>
				0370	0	0	15,800	<15,800>
					50,000	0	45,681	4,319

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

Multi-Year Operating Programs (Existing as of May 30, 2006)

Fd	Agy	Org	Desc	Obj	Current	Encumb	Expend	Avail	
440	4428		TIRE ENFORCEMENT GR 11TH CYCL	0207	2,250	0	1,929	321	
				0255	72,949	0	36,572	36,377	
				0237	7,900	2,182	3,680	2,038	
				0218	4,080	0	0	4,080	
				87,179	2,182	42,181	42,816		
440	4429		TIRE CLEANUP #6	0218	3,600	0	0	3,600	
				0237	204	0	1,945	<1,741>	
				0235	5,700	0	2,815	2,885	
				0255	22,988	0	9,426	13,562	
				32,492	0	14,185	18,307		
355	4431		USED OIL BLOCK GRANT #11	0230	4,652	0	0	4,652	
				0235	20,000	0	0	20,000	
				0255	29,088	0	0	29,088	
				53,740	0	0	53,740		
0700	160	1627	DEVELOPER REIMB GAS TAX IMPRO	0235	55,447	0	0	55,447	
					55,447	0	0	55,447	
0800	140	1443	THE PROMENADE PROJECT	0201	190	0	3	187	
				0205	400	0	0	400	
				0208	500	0	83	417	
				0235	162,326	132,347	29,978	1	
				0245	50	0	34	16	
				0255	43,683	0	34,853	8,831	
				0301	200	0	<59>	259	
					207,349	132,347	64,892	10,110	
	140	1444		ROSELLE/CLARIBEL SPECIFIC PLAN	0201	850	0	427	423
					0205	100	0	0	100
					0208	550	0	295	255
					0230	50	0	0	50
					0235	591,396	226,802	364,117	478
0245					150	0	24	126	
0246					5,000	0	5,000	0	
0248					828	828	0	0	
0255					165,600	0	151,635	13,965	
				765,674	227,630	522,124	15,920		
140	1445		FAIRVIEW VILLAGE SPECIFIC PLAN	0201	244	0	0	244	
				0205	150	0	12	138	
				0208	200	0	162	38	
				0230	50	0	0	50	
				0235	10,000	10,000	80	<80>	
				0255	40,116	0	19,146	20,970	
				0301	700	0	642	58	
				51,460	10,000	20,043	21,417		
140	1447		PELANDALE-MCHENRY SPECIFIC PL	0201	100	0	0	100	
				0205	400	0	0	400	
				0208	300	0	0	300	
				0230	50	0	0	50	
				0235	352,652	77,333	44,819	230,500	
				0246	27,400	8,282	19,118	0	
				0247	29,500	16,792	12,708	0	
				0248	8,225	8,224	0	1	
				0255	100,608	0	17,118	83,490	
				753	0	53	700		
				519,988	110,632	93,815	315,541		

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

Multi-Year Operating Programs (Existing as of May 30, 2006)

Fd	Agy	Org	Desc	Obj	Current	Encumb	Expend	Avail	
140	1448	CLARATINA AVENUE SPECIFIC PLAN	0201	0	0	0	0		
			0205	0	0	0	0		
			0208	0	0	0	0		
			0235	2,000	0	2	1,998		
			0245	0	0	0	0		
			0246	5,100	542	4,558	0		
			0255	2,601	0	386	2,215		
			0301	0	0	0	0		
						9,701	542	4,946	4,213
140	1449	JOHANSEN/NORTH EMPIRE SPEC PL	0201	200	0	0	200		
			0205	300	0	0	300		
			0208	400	0	0	400		
			0210	100	0	0	100		
			0235	450	0	903	<453>		
			0245	200	0	0	200		
			0255	6,475	0	4,623	1,852		
			0301	350	0	1	349		
						8,475	0	5,528	2,947
140	1450	MANA-WAGNER SPECIFIC PLAN	0201	200	0	0	200		
			0205	200	0	0	200		
			0208	500	0	0	500		
			0235	900	0	0	900		
			0245	200	0	0	200		
			0255	16,608	0	1,532	15,076		
			0301	200	0	1	199		
						18,808	0	1,534	17,274
			140	1451	KIERNAN BUS PARK EAST SPEC PLN	0201	300	0	0
0205	300	0				0	300		
0208	500	0				26	474		
0235	900	0				427	473		
0245	200	0				0	200		
0255	46,499	0				23,183	23,316		
0301	400	0				331	69		
						49,099	0	23,967	25,132
140	1452	WOODGLEN SP (FITZPATRICK HMS)				0201	150	0	0
			0205	200	0	0	200		
			0208	150	0	0	150		
			0235	900	0	403	497		
			0245	50	0	23	27		
			0255	38,300	0	9,647	28,653		
			0301	250	0	55	195		
						40,000	0	10,128	29,872
			140	1453	GOULD MEDICAL EXPANSION	0201	75	0	0
0205	0	0				0	0		
0208	100	0				0	100		
0235	98,116	0				0	98,116		
0245	125	0				46	79		
0255	34,420	0				2,769	31,651		
0301	100	0				0	100		
						132,936	0	2,815	130,121
140	1454	KIERNAN BUS PARK EAST ED LOAN	0235	500,000	0	0	500,000		
				500,000	0	0	500,000		

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

Multi-Year Operating Programs (Existing as of May 30, 2006)

Fd	Agy	Org	Desc	Obj	Current	Encumb	Expend	Avail
1130	320	3211	ADA SIGNAL DEVICES	6010	2,000	0	0	2,000
				6040	19,633	0	0	19,633
				6050	1,000	0	0	1,000
				6060	1,000	0	0	1,000
					23,633	0	0	23,633
	320	3214	05-06 ADA CURB RAMPS	6010	10,000	0	0	10,000
				6040	30,000	0	0	30,000
				6050	5,000	0	0	5,000
				6060	5,000	0	0	5,000
					50,000	0	0	50,000
	320	3220	ROBERTSON RD SHADE STRUCTURE	6010	984	363	974	<353>
				6040	70,000	0	0	70,000
				6050	3,850	0	0	3,850
				6060	3,850	0	0	3,850
					78,684	363	974	77,347
	320	3230	KKMC MAINTENANCE	0235	694	0	0	694
0255				1,000	0	0	1,000	
0304				3,000	0	0	3,000	
0370				1,097	0	0	1,097	
				5,791	0	0	5,791	
320	3231	KKMC COLLABORATIVE	0506	175,000	0	0	175,000	
			6010	0	0	0	0	
				175,000	0	0	175,000	
320	3232	SALVATION ARMY SHELTER SHOWE	0511	40,000	0	0	40,000	
			6010	0	0	0	0	
				40,000	0	0	40,000	
1151	320	3271	CDBG-PROPERTY ACQUISITION	0507	1,466,919	0	750,000	716,919
					1,466,919	0	750,000	716,919
1430	310	3122	NON-MOTORIZED TRAIL SYSTEM	0201	0	0	0	0
				0235	167,043	0	0	167,043
				0255	0	0	4,292	<4,292>
				167,043	0	4,292	162,751	
6310	440	5415	DOT GRANT AIR SEVICE DEVELOP	0230	105,000	0	0	105,000
				0258	5,000	0	0	5,000
				0259	0	0	0	0
				0267	45,000	0	0	45,000
				0268	550,000	0	0	550,000
				705,000	0	0	705,000	
6510	165	1677	BUS STOP IMPROVEMENTS	5900	0	0	5,422	<5,422>
				5947	200,000	0	95,259	104,741
				5948	50,000	0	34,067	15,933
				5991	14,232	0	0	14,232
				5992	12,000	0	0	12,000
				5993	58,774	85,685	27,311	<54,222>
				5994	3,520	0	0	3,520
				5997	107,616	0	0	107,616
				446,142	85,685	162,060	198,398	

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

Multi-Year Operating Programs (Existing as of May 30, 2006)

Fd	Agy	Org	Desc	Obj	Current	Encumb	Expend	Avail
	165	1678	FEDERAL EQUIPMENT	0255	24,000	0	0	24,000
				5500	45,000	0	0	45,000
				5700	45,000	0	0	45,000
				5940	5,000	0	0	5,000
				5941	25,000	0	0	25,000
				5942	15,000	0	0	15,000
				5943	2,000	0	0	2,000
				5944	1,500	0	0	1,500
				5945	50,000	0	0	50,000
				5946	45,000	0	0	45,000
				5980	0	0	0	0
				5981	564	0	0	564
				5982	1,079	0	0	1,079
				5983	23,451	0	0	23,451
				5984	10,000	0	0	10,000
				5985	63,000	0	0	63,000
				5995	55,000	0	34,328	20,672
				5996	5,000	0	0	5,000
				5998	124,000	0	0	124,000
					539,594	0	34,328	505,266

**EXHIBIT D
BUDGET ADOPTION ORDINANCE**

**Operating Organizations to be Converted to Multi-Year Programs
(July 1, 2006)**

Fund	Agy	Orgn	Description	Current Modified Budget
0100	430	4306	PW SPECIAL PROJECT NON-CIP	115,000
0330	430	4305	KAISER PROJECT ADMINISTRATION	336,122
0330	430	4307	MARTIN SUBDIVISION	20,000
0400	190	2921	SLESF	80,557
0400	190	2922	SLESF 05-06	299,591
0400	190	2999	2005 LLEBG GRANT	59,746
0400	310	3132	SHERWOOD PK PLAY EQUIP-UPGR	61,471
0400	310	3133	CHRYSLER PK PLAY EQUIP-UPGR	67,822
0400	310	3134	WHITMORE PK PLAY EQUIP-UPGR	59,970
0400	310	3135	SONOMA PK PLAY EQUIP-UPGR	58,822
0400	310	3136	SYLVAN PK PLAY EQUIP UPGRADE	66,822
0400	310	3137	CATH EVERETT PK PLAY EQUIP-UPG	61,747
0400	310	3138	DESIGN OF 15 PARKS	28,993
0400	310	3139	CONS ENG PARK BUILD CONTRACTI	29,500
0400	310	3141	CONS ENG PARK BUILD CONTRACIII	30,500
0400	310	3163	ROOSEVELT PK PLAY EQUIP-UPGR	72,950
0410	190	2967	MODESTO SAFE TRAFFIC OPS PG 05	177,269
0410	190	2983	HIGH RISK OFFENDER SUPERVISION & JUVENILE Ct.	79,700
0410	190	2985	COPS UNIVERSAL HIRING GRANT	625,236
0410	190	2989	COPS IN SCHOOLS	224,539
0410	190	2992	ABC GRANT	100,000
0410	190	2993	COPS IN SCHOOLS(05)	185,576
0410	480	4805	TREES FOR TOTS	12,763
0700	160	1621	RESTRIPPING VAR NEW LOCATIONS	21,839
0700	160	1622	LOW COST TRAFFIC IMPROVEMENTS	9,001
0700	160	1623	NEIGHBORHOOD TRAFFIC CALMING	43,109
0700	160	1624	UPGRADE HIGH VOLTAGE CIRCUITS	14,965
0700	160	1630	LED REPLACEMENT PROGRAM	482,554
0700	410	4120	GAS TAX STREET MAINTENANCE	102,258
0700	420	4218	GIS (GEOGRAPHIC INFO SYSTEM)	73,732
0700	430	4380	SLURRY SEAL FY 03	1,040,146
0700	430	4383	StanCOG SB99 IMAGE ENHANCE	12,240
0700	480	4615	8TH STREET PARKING RESTRIPIING	96,982
0700	480	4617	REPAVING MAINTENANCE (GARBAGE)	833,794
1130	320	3223	05-06 STREET PAVING LOW INC. AREAS	290,436
6530	165	1681	1029 9TH STREET FIRE	217,265

ORDINANCE NO. 3415-C.S.

AN ORDINANCE AMENDING SECTIONS 8-3.202, 8-3.203, 8-3.204, 8-3.207, AND 8-3.208 OF ARTICLE 2 OF CHAPTER 3 OF TITLE 8 OF THE MODESTO MUNICIPAL CODE RELATING TO CENTRAL PURCHASING – PURCHASING MANAGER.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 8-3.202, 8-3.203, 8-3.204, 8-3.207, and 8-3.208 of Article 2 of Chapter 3 of Title 8 of the Modesto Municipal Code are hereby amended to read as follows:

8-3.202. GENERAL RESPONSIBILITIES AND DUTIES OF THE PURCHASING MANAGER.

The position of Purchasing Manager is established by the Personnel Rules. The Purchasing Manager shall be appointed in accordance with the Personnel Rules and shall have the following responsibilities and duties:

- (a) Subject to the provisions of this article, shall be responsible to the Finance Director for contracting for and purchasing supplies, equipment, materials and contractual services, except professional services, required by all City departments and for the administration of the rules established by this chapter or by the City Charter not applicable to public work projects.
- (b) Encourage bulk and seasonal buying and prevent to the extent possible the subdivision of contracts and purchases to avoid the requirements of this chapter.
- (c) Be responsible for assuring written specifications for supplies, materials, equipment and contractual services as may be needed to conform to good and accepted purchasing practices and to the provisions of this article.
- (d) Prepare and maintain vendors' and contractors' files of persons, firms and corporations dealing in supplies, materials, equipment or services used by the City.
- (e) Strive to obtain all Federal and other tax exemptions to which the City is entitled.

Ordinance 3415-C.S.
Effective: July 27, 2006

- (f) Require that all supplies, materials, equipment or services purchased by the City be inspected by the respective receiving departments and that the procurement complies with the specifications.
- (g) Make such recommendations as may be necessary to implement the rules and regulations of the central purchasing system.
- (h) With the approval of the Council, join with the State of California and other units of government in cooperative purchasing plans when the best interest of the City would be served thereby.
- (i) Adhere to formal bidding requirements in accordance with this article.
- (j) Ensure that purchases which can or should, in the best interest of the City, be made by a single contract shall not be divided or segmented into more than one (1) contract in order to defeat the dollar limit authority provided in this chapter.

8-3.203. FORMAL BID PROCEDURES.

This formal bid procedure shall apply to all purchases whose total maximum cost to City exceeds fifty thousand dollars (\$50,000.00), and shall include at least the following:

- (a) Preliminary approval by the City Council of a staff proposed bid package, including all project, material, supply and/or equipment specifications, requirements and all other matters reasonably required of bidders, including, but not limited to, all contractual terms proposed. The total maximum cost to the City if a bid is accepted by the Purchasing Manager, and a contract is executed by the City Manager or designee, shall be set forth.
- (b) Notice Inviting Bids. Notice inviting bids shall be published in the official newspaper by one (1) or more insertions, the first of which shall be at least seven (7) days before the time of bid opening, in accordance with the provisions of Section 1307 of the City Charter. The required newspaper notice shall include a general description of the supplies, materials, equipment, and contractual services to be purchased, state where bid blanks and specifications may be secured and the time and place for opening bids.

Wherever feasible, the Purchasing Manager shall send notices inviting bids to prospective vendors and contractors. It shall be the

responsibility of the Purchasing Manager to encourage as wide a response as possible from prospective vendors or contractors.

- (c) **Bid Deposits.** Where required by the City Charter and when not so required but deemed necessary or desirable by the Purchasing Manager, all bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than the amount specified in the notice inviting bids or in the specifications referred to therein, or if no amount is specified by the notice inviting bids, then in an amount not less than ten (10) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, provide supplies, materials, equipment, or contractual services according to specifications within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the City, and shall be collected and paid into its General Fund, and all bonds forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

All bids not submitted with the required deposit shall be rejected. Unsuccessful bidders shall be entitled to the return of deposits when such have been required after acceptance of the contract by the selected bidder.

- (d) **Sealed Bids.** Bids shall be sealed, shall be identified as bids on the envelope, shall be submitted at the place and no later than the time stated in the public notice inviting bids, and shall be opened at a public meeting at the time and place stated in the public notice. Bids received after the stated time shall not be accepted, whether or not a bid is late through any fault of the late bidder, and shall be returned to the bidder unopened.
- (e) **Council May Reject Bids.** The Council shall have the authority to accept or reject any or all bids, or to waive any informalities or minor irregularities in a bid. The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the purchase in question may be made without a formal bid procedure and, after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council, may proceed to have said purchase made in the manner stated without further observation of the provisions of this section.
- (f) **Lowest Responsive and Responsible Bidder.** In addition to price in determining the "lowest responsive and responsible bidder", consideration will be given to quality and performance of the commodity to be

purchased, or service provided by the seller. Criteria for determining low bid shall include, but not be limited to, the following:

- (1) The ability, capacity and skill of the bidder to provide the supplies, materials, equipment or contractual services as required.
 - (2) The ability of the bidder to provide the supplies, materials, equipment or contractual services within the time specified.
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - (4) The quality or performance of previous purchases from said bidder.
 - (5) The ability of the bidder to provide future maintenance, repair parts and services for the use of the commodity purchased.
- (g) Faithful Performance Bond. When the specifications so provide, the successful bidder shall furnish surety in the form of certified or cashier's check, corporate surety bond or savings and loan certificate for faithful performance of the contract.

8-3.204. EXCEPTIONS TO FORMAL BIDDING REQUIREMENTS.

Except as otherwise provided by this chapter or when directed by the City Manager, all purchases involving an expenditure of City funds in the amount of fifty thousand dollars (\$50,000.00) or less, shall be purchased, when feasible and when in the best interest of the City, in the open market by letter inquiry, informal solicitation, or telephone or facsimile solicitations, with or without newspaper advertisement, and without observation of prescribed formal bid procedures.

Open market purchases, whenever possible and practicable, shall be based on at least three (3) competitive quotations (letter inquiries and/or telephone solicitations), and shall be awarded to the person, firm or corporation submitting the lowest responsible quotation. In determining the lowest quotation, the City shall do so on the basis defined in Section 8-3.203 for establishing the lowest responsible bid used in formal bid purchases.

The Purchasing Manager shall keep a record of all open market orders and the quotations submitted in competition thereof. Such records shall be open to public inspection during business hours. Records of said open market orders or

purchases may be disposed of by the Purchasing Manager following two (2) years from the date of the purchase.

All purchases in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars (\$50,000.00) or less, shall follow formal bid procedures, except for the following, which shall be exempt from the bid requirement:

- (a) Contracts for professional services as defined in Section 8-3.103.
- (b) Where the Purchasing Agency's requirements can be met solely by a single article or process.
- (c) 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.
- (d) 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 a 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.

8-3.207. TRADE-IN ALLOWANCES.

When replacing personal property belonging to the City, the Purchasing Manager is authorized to request quotations for trade-in allowances. Where the trade-in allowance is determined to be adequate and advantageous, the City Manager is authorized to accept said quotation. In those instances the Purchasing Manager is authorized to make the purchase.

8-3.208. PURCHASING-REVOLVING FUND.

A Purchasing-Revolving Fund has been created and is authorized for the use of the Purchasing Manager for the purchase of office, janitorial and other supplies for the use of all departments of the City. Said funds shall be accounted for as recommended by GAAP standards. By resolution the Council may provide the amount needed for the Purchasing-Revolving Fund and may, by resolution, increase or decrease the amount as the needs of the City change.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of June, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Keating, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, Keating, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3415-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 27th day of June, 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: July 27, 2006

Ordinance 3415-C.S.
Effective: July 27, 2006

ORDINANCE NO. 3416-C.S.

**AN ORDINANCE AMENDING SECTIONS 3-1.128, 3-8.06,
AND 3-9.11 OF TITLE 3 OF THE MODESTO MUNICIPAL
CODE RELATING TO INSURANCE.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 3-1.128, 3-8.06 and 3-9.11 of Title 3 of the Modesto Municipal Code are hereby amended to read as follows:

3-1.128. FIREWORKS DISPLAYS INSURANCE REQUIRED.

Section 7802.4.3 of the 2000 Uniform Fire Code is hereby amended to read as follows:

Insurance.

1. The permittee shall furnish a certificate of insurance for each policy required, executed by the company issuing such policy, and approved as to form by the Risk Manager. Such policies shall contain a provision which holds the City as an additional insured and declaring said insurance to be primary and that no other insurance carried by an insured party shall be called upon for contribution. Notwithstanding any other provision of this section, the failure of the permittee to carry such insurance during the time covered by such permit shall automatically revoke the permit as of the date of expiration of such insurance policy or policies. A payment of fifty dollars (\$50.00) shall be made to the City before any such revoked permit may be reinstated.
2. The permittee/licensee shall carry general liability insurance with a minimum limit of liability per occurrence of one million dollars (\$1,000,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) for property damage, or one million dollars (\$1,000,000.00) combined single limit. The certificate of insurance shall include the following coverages and indicate the policy aggregate limit applying to: premises and operations, broad form contractual, and, products and completed operation.

3. The permittee/licensee shall agree to hold the City of Modesto, its agents, officers, employees, and volunteers harmless from and save, defend, and indemnify them against any and all claims, losses, liabilities, and from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney fees and all costs and expenses arising directly or indirectly out of any act or omission of permittee arising out of any activity authorized by the permit.

4. The permittee/licensee shall provide at its own expense and maintain at all times the specified insurance policies with insurance companies approved by the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Finance Director of the City by registered mail, return receipt requested.

3-8.06. INSURANCE.

Each ambulance operator permittee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

3-9.11. LIABILITY INSURANCE.

Each permittee for the operation of non-emergency transport shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the

City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED:



JIM RIDENOUR, Mayor

ATTEST:

By Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3416-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

Ordinance 3416-C.S.
Effective: October 5, 2006

ORDINANCE NO. 3417-C.S.

AN ORDINANCE AMENDING SECTIONS 4-1.1206, 4-3.07, 4-6.901, 4-6.902, 4-7.1609, AND 4-15.108 OF TITLE 4 OF THE MODESTO MUNICIPAL CODE RELATING TO INSURANCE.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 4-1.1206, 4-3.07, 4-6.901, 4-6.902, 4-7.1609, and 4-15.108 of Title 4 of the Modesto Municipal Code are hereby amended to read as follows:

4-1.1206. INSURANCE.

Each sidewalk food vendor permittee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

4-3.07. INSURANCE.

Each moving building permittee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

4-6.901. INSURANCE.

It is unlawful for any owner or driver to operate a taxicab unless there is in full force and effect a policy of insurance whereby the owner and driver of each taxicab operated within the City are insured against liability for damage to property and for injury to or death of any person as a result of the ownership, operation or other use thereof.

The taxicab liability policy shall insure to the benefit of any person suffering loss or damage, either to person or property, as provided in this chapter, and the liability of the insurance carrier shall be in no manner abrogated or abated by the death of the tort feisor and/or the taxicab company owner. The taxicab liability insurance shall be a continuing liability up to the full amount thereof not withstanding any recovery thereon, and the policy shall so certify.

Each taxicab operator shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

Failure to maintain the minimum levels and standards of required insurance for any time is a violation of this chapter and shall be sufficient grounds for the immediate suspension, revocation, or nonrenewal of a permit by the Public Works Director or his/her representative.

4-6.902. CANCELLATION OF INSURANCE.

Taxicab policy of insurance shall also contain an endorsement providing that the policy shall not be canceled or materially modified until notice in writing has been given to the Finance Director, at least thirty (30) days immediately prior to the time such cancellation or material modification becomes effective.

Furthermore, such policy of insurance shall name the City, its mayor, officers, agents and employees as additional named insureds. Additionally, a taxicab owner and driver shall indemnify, defend and hold harmless the City, its mayor, its officers, agents and employees from claims arising from or alleged to arise from the operation of the taxicab owner or driver.

4-7.1609. INSURANCE.

Each trampoline operator shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

4-15.108. INSURANCE.

- (a) Each outdoor dining permittee shall provide the Finance Director with evidence of insurance coverage as approved by the City's Risk Manager. The permittee shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars (\$1,000,000) covering the property and the permitted area on which the outdoor dining will be located.
- (b) The City of Modesto, its elected and appointed officials, officers, agents and employees shall be named as additional insureds on this policy. An

endorsement must be issued as part of the policy reflecting compliance with this requirement.

- (c) A certificate of insurance shall contain provisions prohibiting cancellations, modifications, or lapse without thirty (30) days prior written notice to City. Said insurance shall apply as primary insurance and shall stipulate that any insurance maintained by the City shall be in excess of the permit holder's insurance and shall not contribute with it.
- (d) All new and existing permits must comply with these insurance requirements.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

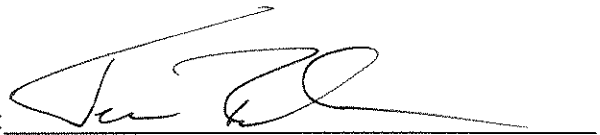
The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3417-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

Ordinance 3417-C.S.
Effective: October 5, 2006

ORDINANCE NO. 3418-C.S.

**AN ORDINANCE AMENDING SECTION 5-5.03 OF
CHAPTER 5 OF TITLE 5 OF THE MODESTO MUNICIPAL
CODE RELATING TO INSURANCE.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 5-5.03 of Chapter 5 of Title 5 of the Modesto Municipal Code is hereby amended to read as follows:

5-5.30. INSURANCE.

Each collector engaging in the collection of solid waste and industrial garbage shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council and shall be the same for all collectors.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.


SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3418-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

ORDINANCE NO. 3419-C.S.

**AN ORDINANCE AMENDING SECTION 6-7.207 OF
ARTICLE 2 OF CHAPTER 7 OF TITLE 6 OF THE
MODESTO MUNICIPAL CODE RELATING TO
INSURANCE.**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 6-7.207 of Article 2 of Chapter 7 of Title 6 of the Modesto Municipal Code is hereby amended to read as follows:

6-7.207. REGULATIONS.

In order to ensure the safety of the public and in order to ensure reasonably adequate service of any such grantee of a permit or license, the grantee of any such permit or license shall comply with each and all of the following requirements, the breach of any of which requirements shall be unlawful and shall be cause for the revocation or suspension of such permit or license in the discretion of the Council.

- (a) Each motor bus licensee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.
- (b) Any motor bus operating under the authority of such permit or license shall comply with all of the provisions established by the laws of the State.
- (c) Every motor bus operated under the authority of such license or permit shall stop to take on and let off passengers at specified points, and wherever provisions shall be made therefor by the Council, shall stop next to the curb at spaces reserved for that purpose.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in

the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

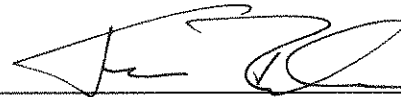
The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3419-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

Ordinance 3419-C.S.
Effective: October 5, 2006

ORDINANCE NO. 3420-C.S.

AN ORDINANCE AMENDING SECTIONS 7-1.109, 7-2.41, 7-3.108, 7-3.108.1, 7-3.108.2 AND 7-3.108.3 OF TITLE 7 OF THE MODESTO MUNICIPAL CODE RELATING TO INSURANCE.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 7-1.109, 7-2.41, 7-3.108, 7-3.108.1, 7-3.108.2 and 7-3.108.3 of Title 7 of the Modesto Municipal Code are hereby amended to read as follows:

7-1.109. RESPONSIBILITY FOR ACCIDENTS: INSURANCE.

Permittee shall be responsible for any and all claims and liabilities for damages caused by any of the work herein permitted or caused by permittee's failure to perform his or her obligations under the permit. In the event any such claim or liability for damages is made against or imposed upon the City or any department, officer or employee thereof, permittee shall and by acceptance of the permit agrees to defend, indemnify and hold each of them harmless from such claim or liability. Each street improvements permittee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager, except property owners constructing, repairing or removing any curb, gutter, sidewalk or driveway themselves along the street frontages of property owned by them. Insurance amounts shall be set forth from time to time by resolution of the City Council.

7-2.41. RESPONSIBILITY FOR ACCIDENTS: INSURANCE.

Permittee shall be responsible for any and all claims and liabilities for damages caused by any of the work herein permitted or caused by permittee's failure to perform his or her obligations under the permit. In the event any such claim or liability for damages is made against or imposed upon the City or any department, officer, or employee thereof, permittee shall and by acceptance of the permit agrees to defend, indemnify, and hold each of them harmless from such claim or liability. Each permittee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

7-3.108. INSURANCE REQUIREMENTS: COMMERCIAL AIRCRAFT.

All commercial aircraft owners or operators permitted use of Modesto City-County Airport/Harry Sham Field shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

7-3.108.1. INSURANCE REQUIREMENTS: PERMANENTLY BASED PRIVATE AIRCRAFT.

All owners or operators of private passenger aircraft, including owners or operators of corporate aircraft which are permitted use of permanent tie-down or hangar space at Modesto City-County Airport/Harry Sham Field, shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

7-3.108.2. INSURANCE REQUIREMENTS: MOTOR VEHICLES AND MOTORIZED EQUIPMENT ON AIR OPERATIONS AREAS OF AIRPORT PREMISES.

Every person or entity permitted to operate a motor vehicle or motorized equipment upon the air operations areas of Modesto City-County Airport/Harry Sham Field, as such air operations areas are designated in the Airport Security Plan adopted by the City Council, shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

7-3.108.3. INSURANCE REQUIREMENTS: FIXED-BASE OPERATORS.

All fixed-base operators shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager. Such amounts shall be set forth from time to time by resolution of the City Council.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3420-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

Ordinance 3420-C.S.
Effective: October 5, 2006

ORDINANCE NO. 3421-C.S.

AN ORDINANCE AMENDING SECTIONS 11-4.05 AND 11-4.34 OF CHAPTER 4 OF TITLE 11 OF THE MODESTO MUNICIPAL CODE RELATING TO INSURANCE.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Sections 11-4.05 and 11-4.34 of Chapter 4 of Title 11 of the Modesto Municipal Code are hereby amended to read as follows:

11-4.05. GRANTING OR DENYING A FRANCHISE.

- (a) Within thirty (30) days following the conclusion of the hearing, the Council shall by resolution deny or by ordinance grant the application for a franchise. The Council's action shall be final and conclusive.
- (b) No Franchise shall become effective unless and until the ordinance granting same has become effective and, in addition, unless and until all things required by this Section and Sections 11-4.19, 11-4.20, 11-4.21, and 11-4.34 are done and completed, all of such things being hereby declared to be conditions precedent to the effectiveness of any franchise. In the event any of these things are not done and complete in the time and manner required, the Council may declare the Franchise null and void.
- (c) Prior to the effective date of an ordinance granting a franchise, the Grantee shall file with the City Clerk a written acceptance of the franchise, together with the surety bond, and security fund, and shall file with the Finance Director insurance policies required by this chapter. The written acceptance shall include an agreement to be bound by and to comply with and to do all things required by the provisions of this chapter and the franchise. The written acceptance shall be acknowledged by the Grantee before a notary public, and shall in form and content be satisfactory to and approved by the City Attorney.

11-4.34. INDEMNIFICATION AND INSURANCE REQUIREMENTS.

- (a) The Grantee shall indemnify and save harmless the City, its officers, agents, and employees, from and against any and all liability, claims, demands, actions, suits and proceedings by others, including reasonable attorney's fees, for loss or damage for bodily injury, sickness and disease, including death resulting therefrom, and for property damage, occasioned

by the construction, operation or maintenance of the Grantee's Cable System under this chapter and its Franchise granted hereunder.

- (b) The Grantee shall indemnify and save harmless the City, its officers, agents and employees, from and against any and all liability claims, demands, actions, suits, and proceedings by others, and against any loss, cost, expense and damages resulting therefrom, including reasonable attorney's fees, arising out of the construction, operation or maintenance of the Grantee's Cable System or failure by the Grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Grantee's Cable System.
- (c) The Cable System Grantee shall provide the Finance Director with evidence of insurance coverage in the amount and form as approved by the City's Risk Manager and as specified in the franchise. Such amounts shall be set forth from time to time by resolution of the City Council consistent with the franchise.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3421-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

Ordinance 3421-C.S.
Effective: October 5, 2006

ORDINANCE NO. 3422-C.S.

**AN ORDINANCE APPROVING THE FIRST AMENDMENT
TO THE DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF MODESTO AND KAISER FOUNDATION
HOSPITALS FOR THE DEVELOPMENT OF KAISER
MODESTO MEDICAL CENTER/CORNERSTONE
BUSINESS PARK LOCATED IN THE KIERNAN BUSINESS
PARK SPECIFIC PLAN.**

WHEREAS, Government Code Section 65864, et seq., authorizes the City to enter into binding development agreements with any person or persons having a legal or equitable interest in real property for the development of such property and authorizes the City to establish procedures for the application and consideration of such agreements, and

WHEREAS, by City Council Resolution No. 91-185, adopted on March 26, 1991, the City Council established procedures and requirements for the consideration of development agreements, and by City Council Resolution No. 97-492, adopted on August 26, 1997, the City Council revised said procedures and requirements and superseded Resolution No. 91-185, and

WHEREAS, on August 10, 2004, the City Council introduced Ordinance No. 3357-C.S. which approved a Development Agreement with Kaiser Foundation Hospitals to allow development of the site, processing of future entitlements, payment of fees and taxes, installation of public infrastructure, and implementation of environmental mitigation measures, and

WHEREAS, Kaiser Foundation Hospitals and the City now desires to enter into a First Amendment to said Development Agreement to allow a change in the completion date for a new domestic water well, change in the completion date for the Kiernan/Dale intersection

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Effective: October 5, 2006

improvements, change in the completion date for formation of the Community Facilities District and a delay in opening Health Care Way, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission of the City of Modesto on July 17, 2006, in the Tenth Street Place Chambers, located at 1010 10th Street, Modesto, California, for the purpose of making a recommendation to the City Council concerning the requested First Amendment to said Development Agreement, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission, by Resolution No. 2006-53, adopted on July 17, 2006, recommended to the City Council approval of the proposed First Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m., on August 8, 2006, 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 considering the requested First Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals to allow a change in the completion date for a new domestic water well, change in the completion date for the Kiernan/Dale intersection improvements, change in the completion date for formation of the Community Facilities District and delay in opening Health Care Way, and

WHEREAS, Section 65867.5 of the Government Code provides that a development agreement is a legislative act which shall be approved by ordinance and is subject to referendum, and

WHEREAS, said Government Code section further provides that a development agreement or any amendment thereto, shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan,

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

SECTION 1. FINDINGS. The Council of the City of Modesto hereby finds and determines as follows:

1. The proposed First Amendment to the Development Agreement is consistent with the General Plan and the Kiernan Business Park Specific Plan of the City of Modesto because the resulting development would be consistent with the land uses of the Kiernan Business Park Specific Plan and the proposed First Amendment to the Development Agreement will continue to ensure that adequate infrastructure planning and construction is done prior to development, as required by the General Plan.
2. The proposed Development Agreement is consistent with the specific content and other requirements of City Council Resolution No. 91-185, which establishes procedures and requirements for the consideration of development agreements; the City's subdivision and zoning provisions of the Modesto Municipal Code, and Government Code Section 65864 et seq.
3. The City Council has considered an Addendum to the Kaiser Medical Center/Cornerstone Business Park Project Final Environmental Impact Report ("EIR") together with the EIR. The City Council determines that pursuant to CEQA Guidelines Sections 15162-15164, the proposed First Amendment to Development Agreement is generally within the scope of

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Effective: October 5, 2006

and adequately described by the EIR, that minor and insubstantial changes or additions to the EIR are required and have been addressed in the Addendum, but no further environmental documentation is necessary. The City Council is not recertifying the EIR.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The First Amendment to the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals to allow a change in the completion date for a new domestic water well, change in the completion date for the Kiernan/Dale intersection improvements, change in the completion date for formation of the Community Facilities District and delay in opening Health Care Way is hereby approved. A copy of the First Amendment to the Development Agreement is on file in the Office of the City Clerk.

SECTION 3. EXECUTION BY CITY. The City Manager or his authorized designee is hereby authorized to execute said First Amendment to the Development Agreement on behalf of the City of Modesto.

SECTION 4. RECORDING OF AGREEMENT. Pursuant to Government Code Section 65868.5, no later than ten (10) days after the City approves said First Amendment to the Development Agreement, the City Clerk is hereby directed to record with the County Recorder a copy of the First Amendment to the Development Agreement which shall describe the land subject thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in

Ordinance 3422-C.S.
Effective: October 5, 2006

the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

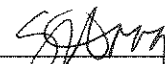
APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ordinance 3422-C.S.
Effective: October 5, 2006

Ord. No. 3422-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, Councilmember Dunbar, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

APPROVED:


MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 5, 2006

Ordinance 3422-C.S.
Effective: October 5, 2006

ORDINANCE NO. 3423-C.S.

**AN ORDINANCE AMENDING SECTION 8-3.102 OF
ARTICLE 1 OF CHAPTER 3 OF TITLE 8 OF THE
MODESTO MUNICIPAL CODE RELATING TO CITY
CONTRACTS - CONTRACTING AUTHORITY.**

The City Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 8-1.102 of Article 1 of

Chapter 3 of Title 8 of the Modesto Municipal Code is hereby amended to read as follows:

8-3.102. CONTRACTING AUTHORITY.

The City Manager may approve and authorize all contracts and purchase orders involving an expenditure of City funds in the total amount of fifty thousand dollars (\$50,000.00) or less. Except as noted below, no contract involving an expenditure in excess of fifty thousand dollars (\$50,000.00) may be authorized, approved or executed without City Council approval. The fifty thousand dollars (\$50,000.00) limit set forth in the preceding sentences does not apply to the following:

- (a) Contracts for public works projects consisting of the improvement or modification of traffic signals or signal systems including those street improvements which are incidental to or related to the improvement or modification of the traffic signal. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of two hundred fifty thousand dollars (\$250,000.00) or less.
- (b) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation or modification of any facilities funded by a Mello-Roos Community Facilities District and involving an expenditure of District Facility Taxes in the amount of three million dollars (\$3,000,000.00) or less. The District Administrator may approve and authorize all contracts for such projects.
- (c) Contracts for public works projects consisting of the maintenance, repair, replacement, and improvement of existing water lines. The City Manager may approve and authorize all contracts for such projects involving an

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Effective: October 12, 2006

- expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.
- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
 - (e) Contracts for public works projects consisting of repairs determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects in the amount of two hundred thousand dollars (\$200,000.00) or less. Within ten (10) days of the authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.
 - (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than four hundred thousand dollars (\$400,000.00) in City funds.
 - (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
 - (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's Institutional Network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the

amount of four million two hundred thousand dollars (\$4,200,000.00) or less.

- (i) Contracts for public works projects consisting of those improvements to the South Modesto water system identified in that certain technical memorandum prepared by West Yost and Associates dated October 17, 2005, as amended on November 7, 2005, for the benefit of the Galas Brothers Unit II Project bounded by Hatch Road, Estrella Way, Ironside Drive, Salazar Circle and Monticello Lane in the City of Modesto and any incidental work thereto. The City Manager may approve and authorize all contracts for this project involving a total expenditure of City funds not to exceed two million five hundred thousand dollars (\$2,500,000) or less.
- (j) Contracts for public works contracts consisting of the purchase, installation and replacement of water meters including an automated water meter reading (AMR) system and infrastructure work in conjunction with the system-wide water metering program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of five million dollars (\$5,000,000) or less annually.

Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of article 3 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(1c) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.

Ordinance 3423-C.S.
Effective: October 12, 2006

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

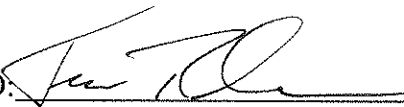
The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September 2006, by Councilmember Dunbar, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____



JIM RIDENOUR, Mayor

ATTEST:

By: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3423-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of September 2006, Councilmember Dunbar moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 12, 2006

Ordinance 3423-C.S.
Effective: October 12, 2006

ORDINANCE NO. 3424-C.S.

AN ORDINANCE AMENDING SECTION 2 OF
ORDINANCE NO. 3342-C.S. ENTITLED "AN ORDINANCE
AMENDING SECTION 22-3-9 OF THE ZONING MAP TO
REZONE FROM PLANNED DEVELOPMENT ZONE, P-
D(454), TO PLANNED DEVELOPMENT ZONE, P-D(564),
PROPERTY LOCATED ON THE SOUTHWEST CORNER
OF BRIGGSMORE AVENUE AND OAKDALE ROAD.
(SOELLING)" (ISMAIL)

SECTION 1. AMENDMENT OF ORDINANCE NO. 3342-C.S. Section 2

Ordinance No. 3342-C.S., is hereby amended to read as follows:

~~"SECTION 2. USES. The following uses shall be permitted in
said P-D(564) Zone if the plan for construction conforms in
principle to the approved plan, or if changes are approved by the
Secretary of the Planning Commission as required by Section 10-
2.1709(c) of the Modesto Municipal Code, or by the Planning
Commission if any changes not conforming in principle to the
approved plan are proposed, as required by Section 10-2.1709(a) or
(b) of the Modesto Municipal Code:~~

*Amended per
Ordinance No.
3458-CS*

- ~~1. Building A, B and E - Office use as permitted in the P-O Zone.~~
- ~~2. Building D - Retail and Office uses as permitted in the C-1 Zone.~~
- ~~3. Building C - Restaurant use as permitted in the C-2 Zone."~~

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in
full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption,
copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in
the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the

Ordinance 3424-C.S.
Effective: October 12, 2006

City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 

JIM RIDENOUR, Mayor

ATTEST:

By: 

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

Ordinance 3424-C.S.
Effective: October 12, 2006

Ord. No. 3424-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of September 2006, Councilmember Dunbar moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: October 12, 2006

Ordinance 3424-C.S.
Effective: October 12, 2006

ORDINANCE NO. 3425 -C.S.

AN ORDINANCE AMENDING SECTION 9-3-9 OF THE ZONING MAP TO REZONE FROM LOW-DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(575), PROPERTY LOCATED ON THE WEST SIDE OF COFFEE ROAD NORTH OF E. RUMBLE ROAD (GUPTA)

The Council of the City of Modesto does ordain as follows:

SECTION 1. ZONING CHANGE. Section 9-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low-Density Residential Zone, R-1, to Planned Development Zone, P-D(575):

R-1 to P-D(575)

All that portion of the east half of the southeast quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, particularly described as follows:

Commencing on the southeast corner of said Section 9; thence north 89° 37' west along the section line 20.00 feet; thence north 0° 50' 30" west along the west line of a 40 foot country road 657.00 feet to the true point of beginning of this description; thence continuing north 0° 50' 30" west along the west line of a 40 foot country road 158.00 feet; thence north 89° 37' west 278.00 feet; thence south 0° 50' 30" east 158.00 feet; Thence south 89° 37' east 278.00 feet to the true point of beginning of this description.

Excepting there from that portion deeded to the City of Modesto recorded June 11, 1990 as Instrument No. 051426, Stanislaus County Records.

Also including the west one-half of Coffee Road immediately adjacent to the above described property; and

SECTION 2. USES. The following uses shall be permitted in said P-D(575) Zone if the plan for construction conforms in principle to the approved plan, or if changes are

Ordinance 3425-C.S.
Effective: October 12, 2006

approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. Professional/medical offices as allowed in the P-O Zone.
2. A minimum of fifty-two (52) off-street parking spaces as shown on the approved plans.

SECTION 3. ZONING MAP. Section Map 9-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.


SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Marsh, who moved its introduction and passage to print, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

Ordinance 3425-C.S.
Effective: October 12, 2006

Ord. No. 3425-C.S.

FINAL ADOPTION CLAUSE

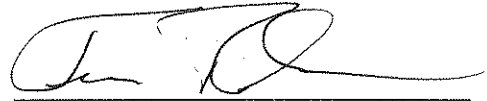
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of September 2006, Councilmember Dunbar moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 12, 2006

Ordinance 3425-C.S.
Effective: October 12, 2006

ORDINANCE NO. 3426-C.S.

**AN ORDINANCE AMENDING SECTION 2 OF
ORDINANCE NO. 1303-C.S. ENTITLED "AN ORDINANCE
AMENDING SECTION MAP 20-3-9 OF THE ZONING MAP
OF THE CITY OF MODESTO, RECLASSIFYING
CERTAIN PROPERTY LOCATED THEREON. (JOHN
QUARESMA-TULLY AND ROSEBURG)."**

SECTION 1. AMENDMENT OF ORDINANCE NO. 1303-C.S. Section 2 of

Ordinance No. 1303-C.S., is hereby amended to read as follows:

"SECTION 2. USES. The following uses shall be permitted in said P-D(118) Zone subject to securing approval of the Secretary of the Planning Commission if the plan for construction conforms in principle to the approved plan, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed as required by Section 10-2.2708(b) of the Modesto Municipal Code:

1. Four one-story professional offices and accompanying off-street parking spaces at the ratio of one space per 200 square feet of gross building area.
2. A maximum of 77 one and two-story apartments with accompanying off-street parking at the minimum ratio of one and one-half parking spaces per dwelling unit.
3. A maximum of three two-story single-family dwellings all fronting on Notre Dame Avenue, each dwelling having up to a maximum three-car garage and a separate lot for each as shown on the subdivision map.
4. Utility and maintenance buildings.
5. A storage, laundry and recreation building, and swimming pool.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

Ordinance 3426-C.S.
Effective: October 12, 2006

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ordinance 3426-C.S.
Effective: October 12, 2006

Ord. No. 3426-C.S.

FINAL ADOPTION CLAUSE

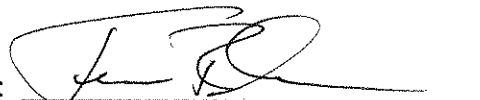
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of September 2006, Councilmember Dunbar moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:



MAYOR JIM RIDENOUR

ATTEST:


JEAN MORRIS, City Clerk

Effective Date: October 12, 2006

Ordinance 3426-C.S.
Effective: October 12, 2006

ORDINANCE NO. 3427-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.241.4.a, 10-2.241.4.b, 10-2.402, 10-2.502, 10-2.503, 10-2.504, 10-2.603, 10-2.609, 10-2.703, 10-2.709, 10-2.902, 10-2.903, 10-2.1003, 10-2.1202, 10-2.1302, 10-2.1304, 10-2.1402, 10-2.1404, 10-2.1502, 10-2.1602, 10-2.1604, 10-2.2002, 10-2.2306, 10-3.102, 10-3.103, 10-3.104, 10-3.105, 10-3.202, 10-3.204, AND 10-3.301 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE; ADDING SECTION 10-2.234.3 THERETO; ADDING ARTICLE 5 TO CHAPTER 3 THERETO; AND REPEALING SECTIONS 10-2.403, 10-2.1103, 10-2.1203, 10-2.1303, 10-2.1403, 10-2.1503, 10-2.1603, 10-2.2332, 10-3.109, 10-3.110, 10-3.111, AND 10-3.201 THEREOF RELATING TO PLANNING AND ZONING.

The Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS: The City Council hereby finds and determines that the zoning code amendments as set forth herein are necessary for the public health, safety and welfare and conform to the City's 2003 Urban Area General Plan for the following reasons:

1. The proposed amendments regarding Second Units (MMC § 10-2.502, 10-2.503, 10-2.609, 10-2.709) are consistent with Policy 2.4 and Program 2.2 of the Housing Element, "Second Units/Accessory Units" and Program 4.2, "Zoning Code Amendments." The proposed amendments implement and are consistent with AB 1866, California Government Code §65852.2. Specifically, the 800-square-foot unit provided for will allow for the construction of at least an efficiency unit in compliance with local development standards.
2. The City desires to promote the construction and availability of affordable housing units, as expressed in Housing Element Policy 1.1. The provisions of the Second Unit amendments linking increased unit size and relaxed parking standards to affordability (MMC § 10-3.501) will result in the promotion of this important public interest.
3. The proposed amendments regarding the City Density Bonus provisions

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(MMC § 10-3.101-111, 10-3-201-204, 103.301) are consistent with Program 1.7 of the Housing Element, “Density Bonus” and Program 4.2, “Zoning Code Amendments.” The proposed amendments implement and are consistent with California Government Code §§ 65915 and 65917, and will result in promotion of the important public interest of affordable housing.

4. The proposed amendments regarding Second Units linking increased unit size and relaxed parking standards (MMC § 10-2.502), and the amendments regarding Density Bonus provisions (MMC § 10-3.101-111, 10-3-201-204, 103.301) will enhance the provision of affordable units consistent with the requirements set forth in the Housing Element and established by the Regional Housing Needs Assessment.
5. The proposed amendments regarding Parking (MMC § 10-2.2002) are consistent with Program 5.3 of the Housing Element, “Reduction of Parking Standards,” providing flexibility for mixed-use projects and reduced requirements for projects incorporating small units such as studios and one-bedroom units.
6. The proposed amendment regarding Care Facilities (MMC § 102.502-504, 10-2.241.4.a, 10-2.241.4.b) provides improved definition of Care Facilities and ties these definitions to those found in State law.
7. The proposed amendment regarding Model Homes (MMC § 10-2.234.3, 10-2.2306) provides a clearer definition of Model Homes and is consistent with the Subdivision Map Act.
8. The proposed amendment regarding Satellite Dish antennas (MMC § 10-2.402-403, 10-2.502-503, 10-2.603, 10-2.703, 10-2.902-903, 10-2.10-3, 10-2.1103, 10-2.1202-1203, 10-2.1302-1304, 10-2.1402-1404, 10-2.1502-1503, 10-2.1602-1604, 10-2.2332) addresses an outmoded technology and removes outdated provisions from the Code.
9. The amendments will provide a variety of housing opportunities for all income levels and housing needs.

SECTION 2. AMENDMENT OF CODE. Sections 10-2.241.4.a, 10-2.241.4.b, 10-2.402, 10-2.502, 10-2.503, 10-2.504, 10-2.603, 10-2.609, 10-2.703, 10-2.709, 10-2.902, 10-

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2.903, 10-2.1003, 10-2.1202, 10-2.1302, 10-2.1304, 10-2.1402, 10-2.1404, 10-2.1502, 10-2.1602, 10-2.1604, 10-2.2002, 10-2.2306, 10-3.102, 10-3.103, 10-3.104, 10-3.105, 10-3.202, 10-3.204, and 10-3.301 of Title 10 of the Modesto Municipal Code are hereby amended to read as follows:

10-2.241.4.a. RESIDENTIAL CARE FACILITY.

“Residential care facility” means a single-family dwelling unit which provides twenty-four (24) hour non-medical care of persons who are in need of personal service, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment, in a facility licensed by the State of California. A residential care facility does not include family day care, foster care or any medical services, including nursing services, beyond that required by the residents of the residential care facility for sustaining the activities of daily living. A residential care facility specifically includes a community care facility, residential care facility, alcoholism or drug abuse recovery facility, or family care home, foster home, or group home for mentally disordered or otherwise handicapped persons or dependent or neglected children, as defined by California Health and Safety Code Section 1502 and licensed by the State of California.

10-2.241.4.b. RESIDENTIAL SERVICE FACILITY.

“Residential service facility” means a single-family dwelling unit which provides twenty-four (24) hour non-medical care of persons who are in need of personal service, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment, in a facility not licensed by the State of California. A residential service facility does not include family day care, foster care or any medical services, including nursing services, beyond that required by the residents of the residential service facility for sustaining the activities of daily living.

10-2.402. PERMITTED USES.

The following are permitted uses:

- (a) The growing of fruit and nut trees, vines, row crops and horticultural

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Effective: November 23, 2006

stock, and the maintenance of livestock and other farm animals excluding pig farming, dairies, and feed lots.

- (b) One (1) single-family dwelling per lot.
- (c) The provision of lodging and/or boarding to a maximum of three (3) persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate eating, cooking or food storage facilities.
- (d) The operation of a bed and breakfast home, provided that not more than two (2) bedrooms may be used for the lodging of guests and that the property owner shall reside on the premises.
- (e) Adult day care for three (3) or fewer persons in addition to members of the family.
- (f) Twenty-four-hour care for six (6) or fewer persons in addition to members of the family. Twenty-four-hour care is not permitted where there are two (2) dwellings on a lot except as allowed by a conditional use permit.
- (g) Child day care for twelve (12) or fewer children in addition to members of the family. Only one (1) day care business is permitted per lot.
- (h) Parks owned and operated by a governmental agency.
- (i) Signs subject to the provisions of the R-1 Zone specified in Article 21.
- (j) Accessory uses and structures customarily incidental to the above permitted uses. Use of shipping containers as defined is not permitted.

10-2.502. PERMITTED USES.

The following are permitted uses:

- (a) One (1) single-family dwelling per lot.
- (b) Two (2) single-family dwellings or a duplex on any corner lot, provided that the driveway serving the off-street parking for one (1) dwelling unit shall have access to one (1) street and the driveway serving the off-street

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parking for the other dwelling unit shall have access to another street. If the lot has access to an alley, one (1) or both driveways may access to the alley.

- (c) Two (2) dwelling units are allowed on interior lots where the following conditions are met:
 - (1) The property owner shall live in one (1) of the units. Prior to final inspection of any such unit, owner shall record a notice of conditions specifying that owner shall occupy one (1) of the units at all times.
 - (2) One (1) of the units shall have no more than six hundred forty (640) square feet. Subject to execution and recordation of a covenant providing that one (1) of the units shall be affordable to persons/families of low income in accordance with Section 10-3.501, this limitation shall be increased to eight hundred (800) square feet. Subject to execution and recordation of a covenant providing that one (1) of the units shall be affordable to persons/families of very low income in accordance with Section 10-3.501, this limitation shall be increased to one thousand (1000) square feet.
 - (3) Off-street parking spaces shall be provided, the number in conformance with Section 10-2.2002(a)(1). Where affordability covenants have been executed, one (1) space in tandem may be provided in conjunction with provision of low income housing, and up to two (2) spaces in tandem in conjunction with very low income housing.
 - (4) If there is an existing unit prior to plan approval, the unit must be brought into conformance with the Housing Code prior to occupancy of the second unit.
 - (5) Maintaining a single-family dwelling appearance is required through means such as:
 - (i) Attaching the second unit to the first on small or typical sized lots. On large or deep lots detached units are acceptable.

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Effective: November 23, 2006

- (ii) Putting the second unit entrance to the side or rear of the building so it is not readily visible from the same street as the first unit's entrance.
 - (iii) Locating parking so that all three (3) spaces are not readily visible from the same street. Alley access for both units is acceptable.
 - (iv) Employing construction materials and architectural styles which blend the units so they appear as a single residence if attached or a single residence and accessory building if detached.
- (6) The City Council may designate, from time to time, by resolution, areas within which second units will not be permitted due to infrastructure constraints relating to water and sanitary sewer.
- (d) The provision of lodging and/or boarding to a maximum of three (3) persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate eating, cooking or food storage facilities. Lodging or boarding is not permitted where there are two (2) dwellings on a lot.
 - (e) The operation of a bed and breakfast home, provided that not more than two (2) bedrooms may be used for the lodging of guests and that the property owner shall reside on the premises.
 - (f) Adult day care for three (3) or fewer persons in addition to members of the family if there is only one (1) dwelling unit on the lot.
 - (g) A small family day care home as defined by California Health and Safety Code Section 1596.78(c) and provided by Section 1597.45. Only one (1) day care business is permitted per lot.
 - (h) A residential care facility serving six (6) or fewer persons in addition to staff.
 - (i) Parks owned and operated by a governmental agency.

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- (j) The growing of fruit and nut trees, vines, row crops and horticultural stock.
- (k) Signs subject to the provisions of Article 21.
- (l) Accessory uses and structures customarily incidental to the above permitted uses. Use of shipping containers as defined is not permitted.

10-2.503. PLOT PLAN USES.

The following uses are permitted upon securing plot plan approval from the Board:

- (a) A large family day care home as defined by California Health and Safety Code Section 1596.78(b) and provided by Section 1597.46. Review of a plot plan for a large family day care home shall be limited to a determination that required parking has been provided and that the site plan will preclude undue noise impacts on neighboring properties and provide for appropriate pick-up and drop-off not impacting the traffic level of service or safety characteristics of the streets in the vicinity.

10-2.504. CONDITIONAL USES.

The following uses are permitted upon securing a conditional use permit from the Board:

- (a) Church.
- (b) Public buildings or grounds operated by any governmental agency which are not a permitted use.
- (c) Buildings, facilities or grounds operated by a utility company.
- (d) Private recreational grounds and facilities not open to the general public and to which no admission charge is made.
- (e) Storm drainage basins and related facilities.
- (f) Adult day care for three (3) or fewer persons in addition to members of the family where there are two (2) dwelling units on a lot.

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- (g) Adult day care for four (4) or more persons in addition to members of the family if there is only one (1) dwelling unit on a lot.
- (h) Residential care facility for seven (7) or more persons.
- (i) Residential service facility.
- (j) Child day care for fifteen (15) or more children in addition to members of the family. Only one (1) conditional use permit for child day care is permitted per lot.
- (k) The provision of lodging and/or board to four (4) or more persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate eating, cooking or food storage facilities. Lodging or boarding shall not be permitted where there are two (2) dwellings on a lot.
- (l) A parking area for an immediately adjacent nonresidential use in a nonresidential zone.
- (m) Parochial and private schools.
- (n) Two (2) or more residential care facilities occupying a property in one (1) ownership, or any combination of twenty-four (24) hour care and day care.

10-2.603. PLOT PLAN USES.

The following uses are permitted upon securing a plot plan approval:

- (a) Any development of five (5) or more dwelling units shall be subject to plot plan approval by the Commission.
- (b) Any development consisting of two (2) or more residential buildings per lot up to and including four (4) dwelling units shall be subject to plot plan approval by the Director.
- (c) Any development of residential uses taking vehicular access to a collector or major street. An additional purpose of the plot plan review is to encourage the combining of driveways among parcels and designing

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parking spaces and driveways so that vehicles can enter the street in a forward manner.

- (1) Plot plan approval by the Planning Commission shall occur at the time of consideration of approval of a tentative subdivision or parcel map.
 - (2) Plot plan approval by the Director shall occur for any development of up to four (4) dwelling units that are not subject to subdivision or parcel map approval.
- (d) A two-story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Director for four (4) or fewer dwelling units and by the Commission for five (5) or more dwelling units.
- (e) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and on the same site as a church, school, or governmental use shall be subject to plot plan approval by the Board.

10-2.609. AREA AND DENSITY.

Every lot shall have a minimum area of six thousand (6,000) square feet for interior lots and sixty-five hundred (6,500) square feet for corner lots. One (1) dwelling unit shall be permitted for each three thousand (3,000) square feet of lot area.

For existing interior lots of five thousand (5,000) to six thousand (6,000) square feet, a second unit is permitted in accordance with the provisions of Section 10-2.502(c). For existing corner lots of fifty-five hundred (5,500) to sixty-five hundred (6,500) square feet, a duplex is permitted in accordance with the provisions of Section 10-2.502(b).

10-2.703. PLOT PLAN USES.

The following uses are permitted upon securing plot plan approval:

- (a) Any development of five (5) or more dwelling units shall be subject to plot

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plan approval by the Commission.

- (b) Any development consisting of two (2) or more residential buildings per lot up to and including four (4) dwelling units shall be subject to plot plan approval by the Director.
- (c) Any development of residential uses taking vehicular access to a collector or major street. An additional purpose of the plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner.
 - (1) Plot plan approval by the Planning Commission shall occur at the time of consideration of approval of a tentative subdivision or parcel map.
 - (2) Plot plan approval by the Director shall occur for any development of up to four (4) dwelling units that are not subject to subdivision or parcel map approval.
- (d) A two-story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Director for four (4) or fewer dwelling units and by the Commission for five (5) or more dwelling units.
- (e) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and on the same site as a church, school, or governmental use shall be subject to plot plan approval by the Board.

10-2.709. AREA AND DENSITY.

Every lot shall have a minimum area of six thousand (6,000) square feet for interior lots and sixty-five hundred (6,500) square feet for corner lots. Three (3) dwelling units shall be permitted for the first six thousand (6,000) square feet. One dwelling unit shall be permitted for each fifteen hundred (1,500) square feet over the required area for three (3) dwelling units.

For existing interior lots of five thousand (5,000) to six thousand (6,000) square

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feet, a second unit is permitted in accordance with the provisions of Section 10-2.502(c). For existing corner lots of fifty-five hundred (5,500) to sixty-five (6,500) square feet, a duplex is permitted in accordance with the provisions of Section 10-2.502(b).

10-2.902. PERMITTED USES.

The following are permitted uses:

- (a) Signs subject to the provisions of Article 21.

10-2.903. PLOT PLAN USES BY BOARD.

The following uses are allowed upon securing plot plan approval by the Board:

- (a) Business office (including government office, insurance sales and services, real estate sales and services, stockbroker, utility office; excluding retail or wholesale sales, banks, savings and loans and similar financial institutions).
- (b) Medical and dental office or laboratory.
- (c) Pharmacy (excluding manufacture or distribution of pharmaceuticals).
- (d) Professional office (including accountant, architect, attorney, chiropractor, chiropodist, engineer, optometrist, surveyor).
- (e) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and/or the same site as a church or governmental use.
- (f) A parking area for an immediately adjacent commercial use in a commercial zone.

10-2.1003. PLOT PLAN USES.

- (a) Subject to plot plan approval by the Director, a small recycling collection facility not exceeding five hundred (500) square feet in area. In conducting the plan review, the Director shall consider the following:

- (1) The recycling collection facility may not reduce parking below that

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required by this Code for the site.

- (2) The recycling facility shall maintain compatibility with any residential use adjacent to the site through means such as screening.
- (3) The recycling facility shall be designed to ensure that all recyclable materials will be kept inside covered containers or structures.
- (4) The recycling facility may not impair any landscaping otherwise required for the site.

10-2.1202. PERMITTED USES.

The following are permitted uses:

- (a) Signs subject to the provisions of Article 21.

10-2.1302. PERMITTED USES.

The following are permitted uses:

- (a) Any permitted or conditional use in the C-3 Zone (except for residential uses).
- (b) Automobile body and fender works.
- (c) Automobile dismantling and used parts storage.
- (d) Automobile painting shop.
- (e) Automobile steam cleaning shop.
- (f) Blacksmith shop.
- (g) Boat manufacture.
- (h) Bottling plant (soft drinks).
- (i) Building materials store (including lumber, roofing, insulation, awnings, glass, weatherstripping, doors).

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- (j) Cabinet shop.
- (k) Carpet cleaning plant.
- (l) Contracting business (including equipment and materials yard).
- (m) Dairy products processing.
- (n) Equipment rental yard.
- (o) Ice dealer.
- (p) Laundry and dry cleaning plant.
- (q) Linen supply and service.
- (r) Machine shop, electric motor shop.
- (s) Moving and storage service.
- (t) Plating and anodizing shop.
- (u) Radiator shop.
- (v) One dish-type satellite antenna per use not to exceed thirteen (13) feet in diameter and which is either:
 - (1) Ground-mounted so as not to exceed fifteen (15) feet at the highest point of the antenna, and located to the rear of the building excepting the ten (10) feet of any rear setback area that may exist adjacent to the rear property line, or
 - (2) Mounted so that it is more than fifteen (15) feet, but not more than thirty-five (35) feet at its highest point, located so as to have a rear-of-building orientation as approved by the Director.
- (w) Sheet metal shop, heating and plumbing equipment dealer.
- (x) Tire rebuilding, recapping, retreading.

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- (y) Truck, truck trailer, mobile home repair.
- (z) Veterinary hospital (large animals).
- (aa) Welding shop.
- (ab) Wholesale business.

10-2.1304. CONDITIONAL USES. (C-M Zone)

Subject to a conditional use permit from the Board, and homeless shelters.

10-2.1402. PERMITTED USES.

The following are permitted uses:

- (a) Any permitted or conditional use in the C-M Zone.
- (b) Battery rebuilding.
- (c) Brewery.
- (d) Bulk fuel storage of Class II flammable liquids for the power needs of food processing plants.
- (e) Distributing, freighting or trucking yard.
- (f) Food and kindred products processing and storage.
- (g) Hatchery.
- (h) Ice plant.
- (i) Light recycling processing facility.
- (j) Manufacture, fabrication, processing, packaging or treatment of:
 - (1) Apparel.
 - (2) Commercial advertising signs or structures.

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- (3) Small ceramic products (such as figurines, stoneware, porcelain, wall and floor tile).
- (4) Cosmetics, perfumes, toiletries.
- (5) Electronic and business machines.
- (6) Furniture and fixtures.
- (7) Leather products.
- (8) Lumber and wood products (excluding burning operations).
- (9) Musical instruments.
- (10) Paper products (excluding pulp and paper mills).
- (11) Pharmaceuticals.
- (12) Photographic equipment.
- (13) Plastics and plastic products.
- (14) Rubber and rubber products.
- (15) Seeds.
- (16) Textiles.
- (17) Tobacco.

- (k) Manufacture, fabrication, processing, packaging or treatment of products from the following previously prepared materials: bone, cellophane, cork, feathers, fiber, fur, glass, hair, horn, precious or semiprecious metals or stones, shell, straw.

- (l) Meat packing plant.

- (m) Massage and bath establishments and schools of massage.

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- (n) Poultry and rabbit slaughter (including custom dressing).
- (o) Sand, gravel, brick and building block dealer (excluding concrete mixing, manufacture or rock crushing).
- (p) Transit and transportation equipment storage yard.

10-2.1404. CONDITIONAL USES. (M-1 Zone)

Subject to a conditional use permit from the Board, and homeless shelters.

10-2.1502. PERMITTED USES.

The following are permitted uses:

- (a) Any permitted and conditional use in the M-1 Zone.
- (b) Manufacture, fabrication, processing and treatment of:
 - (1) Large ceramic products (such as bricks or tile).
 - (2) Glass, clay, concrete, stone and related products, excluding rock crushing.
 - (3) Metals and metal products.
 - (4) Natural gas and gas products.
 - (5) Petroleum and petroleum products.
 - (6) Stone monuments and tombstones.
- (c) Railroad repair shop, classification yard.
- (d) Winery.

10-2.1602. PERMITTED USES.

The following are permitted uses:

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- (a) Employment-intensive offices: Office buildings designed for one hundred (100) or more employees. This use shall include, but not be limited to, offices devoted to word processing and information processing, regional insurance offices, corporate headquarters, and records processing centers.
- (b) Light industrial uses: Involving the manufacture, fabrication, processing, packaging, or treatment of:
 - (1) Apparel and other finished products made from fabrics and similar materials.
 - (2) Furniture, fixtures and cabinetry.
 - (3) Leather products, excluding leather trimming and finishing.
 - (4) Products made from purchased glass.
 - (5) Pottery and related products.
 - (6) Cut stone products.
 - (7) Electrical and electronic machinery, equipment and supplies, excluding manufacture and fabrication of primary or storage batteries.
 - (8) Precision goods: Measuring, analytical, and controlling instruments; photographic, medical and optical goods, watches and clocks.
 - (9) Fabricated rubber products.
 - (10) Fabricated plastic products.
 - (11) Jewelry, silverware and plated ware.
 - (12) Musical instruments.
 - (13) Toys and amusement, sporting, and athletic goods.

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- (14) Pens, pencils, and other office and artists materials.
- (15) Costume jewelry, buttons, and notions.
- (c) Printing and publishing.
- (d) Wholesale and retail sales of goods produced on the premises, as an adjunct to manufacture subject to the following conditions:
 - (1) Not more than twenty-five (25) percent of the gross building area may be used for these purposes.
 - (2) Wholesale and retail sales shall be limited to goods produced on the premises.
- (e) Reverse vending machines or unattended containers for the donations of recyclable paper or beverage containers, occupying no more than fifty (50) square feet, in conjunction with and on the same site as any other permitted or conditional use.

10-2.1604. CONDITIONAL USES.

The following uses are allowed in any development for which a conditional use permit has been granted by the Board:

- (a) Office buildings or complexes designed for less than one hundred (100) employees but meeting the purpose and intent of this zone.
- (b) Business services, personal services, retail trade, and restaurants incidental to and serving the needs of already established industries and employment-intensive offices within the zone.

10-2.2002. NUMBER OF REQUIRED SPACES.

Except as otherwise provided in this article, or by the Council, Commission or Board as part of plot plan reviews, rezoning, use permits or other similar applications, the minimum number of required off-street parking spaces shall be:

- (a) Residential Uses.

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- (1) Unless otherwise provided below, for sites with one (1) to thirty-six (36) dwelling units, two (2) off-street parking spaces shall be provided for each unit. For each additional unit above thirty-six (36), one and one-half (1.5) spaces per unit shall be provided. Studio and one-bedroom units shall require one (1) space per unit.
 - (2) In a project, for every dwelling unit not having direct vehicular access to a public street:
 - (i) An additional one-half (0.5) space is required for each unit with a one (1) car garage.
 - (ii) One (1) additional space is required for each unit with a two (2) car garage.
 - (3) For the purpose of meeting the requirements in (a)(3) of this section that are greater than those in (a)(1) of this section, tandem or driveway standard-size spaces may be counted.
 - (4) For developments where vehicular access is via private streets or common driveways, one (1) recreational vehicle parking space shall be provided for every twenty-five (25) dwelling units. For projects with less than twenty-five (25) dwelling units, no such spaces are required. Recreational vehicle spaces shall at a minimum be ten (10) feet wide and twenty-six (26) feet long.
 - (5) Residential care facility, residential service facility, or family day care home: One (1) additional space for each employee or attendant beyond two (2).
- (b) Nonresidential Uses.
- (1) Bar: One (1) for each three (3) seats or one (1) for each sixty (60) square feet of drinking area when the number of seats not known or not permanently fixed;
 - (2) Beauty college: Two and one-half (2.5) for each training station;
 - (3) Bingo game: One (1) for each four (4) seats;

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- (4) Boarding and lodging house, club or fraternity with sleeping rooms: One (1) for each two (2) beds;
- (5) Bowling alley: One (1) for each three hundred (300) square feet;
- (6) Child day care other than family day care homes: One (1) for each five (5) children;
- (7) Church: One (1) for each four (4) seats in the building with the largest capacity;
- (8) Dance hall: One (1) for each fifty (50) square feet of floor area used for dancing;
- (9) Hospital: One and three-quarters (1.75) for each bed;
- (10) Hotel or motel: One (1) for each guest room. Additional spaces for restaurants, meeting facilities and other related uses shall be provided as required;
- (11) Library: One (1) for each three hundred (300) square feet;
- (12) Manufacturing or related use: One (1) for each six hundred (600) square feet;
- (13) Medical or dental office: One (1) for each two hundred (200) square feet;
- (14) Motor vehicle and machinery repair: One (1) for each three hundred (300) square feet;
- (15) Mortuary or funeral home: One (1) for each four (4) seats in the largest room used for services (tandem spaces may be counted);
- (16) Office or service business: One (1) for each three hundred (300) square feet;
- (17) Outdoor recreational use: Ten (10) spaces per usable recreation acre;

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- (18) Pool hall: One (1) for each three hundred (300) square feet;
 - (19) Restaurant: One (1) for each three (3) seats or one (1) for each sixty (60) square feet of dining area when the number of seats is not known or not permanently fixed;
 - (20) Retail business: One (1) for each three hundred (300) square feet;
 - (21) Sanitarium, nursing home, home for the elderly or other twenty-four (24) hour care facility: One (1) for each four (4) beds. Additional parking shall be provided as required for a proprietor's dwelling;
 - (22) School for instruction in the arts, athletics, or self-defense and vocational schools: One (1) for each three hundred (300) square feet;
 - (23) Theaters: One (1) for each four (4) seats;
 - (24) Veterinary hospital: One (1) for each three hundred (300) square feet including animal runs;
 - (25) Warehouse: One (1) for each two thousand (2,000) square feet up to ten thousand (10,000) square feet, one (1) for each five thousand (5,000) square feet after the first ten thousand (10,000) square feet. Parking for a mini-warehouse shall only be required if there is an office or residence included in the project; and
 - (26) Wholesale business: One (1) for each three hundred (300) square feet.
- (c) Nonresidential Uses Inside Downtown P-D Zone Area.
- (1) Bar: One (1) for each four (4) seats or one (1) for each sixty (60) square feet of drinking area when the number of seats is not known or not permanently fixed;
 - (2) Beauty college: Two and one-half (2.5) for each training station;
 - (3) Bingo game: One (1) for each four (4) seats;

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- (4) Boarding and lodging house, club or fraternity with sleeping rooms: One (1) for each two (2) beds;
- (5) Bowling alley: One (1) for each three hundred (300) square feet;
- (6) Church: One (1) for each five (5) seats in the building with the largest capacity;
- (7) Dance hall: One (1) for each fifty (50) square feet of floor area used for dancing;
- (8) Hospital: One and one-half (1.5) for each bed;
- (9) Hotel or motel: One (1) for each guest room. Additional spaces for restaurants, meeting facilities and other related uses shall be provided as required;
- (10) Library: One (1) for each five hundred (500) square feet;
- (11) Manufacturing or related use: One (1) for each six hundred (600) square feet;
- (12) Medical or dental office: One (1) for each two hundred (200) square feet;
- (13) Motor vehicle and machinery repair: One (1) for each six hundred (600) square feet, with repair space for motor vehicles or machinery not counted as parking spaces;
- (14) Mortuary or funeral home: One (1) for each five (5) seats in the largest room used for services (tandem spaces may be counted);
- (15) Office or service business: One (1) for each five hundred (500) square feet;
- (16) Pool hall: Two (2) for each table;
- (17) Restaurant: One (1) for each four (4) seats or one (1) for each sixty (60) square feet of dining area when the number of seats is not known or not permanently fixed;

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- (18) Retail business: One (1) for each five hundred (500) square feet;
 - (19) Sanitarium, nursing home, home for the elderly or other twenty-four (24) hour care facility. One (1) for each four (4) beds. Additional parking shall be provided as required for a proprietor's dwelling;
 - (20) School for instruction in the arts, athletics, or self-defense and vocational schools: One (1) for each five hundred (500) square feet;
 - (21) Theaters: One (1) for each five (5) seats;
 - (22) Veterinary hospital: One (1) for each five hundred (500) square feet, including animal runs;
 - (23) Warehouse: One (1) for each two thousand (2,000) square feet up to ten thousand (10,000) square feet, one (1) for each five thousand (5,000) square feet after the first ten thousand (10,000) square feet. Parking for a mini-warehouse shall only be required if there is an office or residence included in the project;
 - (24) Wholesale business: One (1) for each eight hundred (800) square feet.
- (d) Additional spaces required by expansion, reconstruction or change in use shall be provided in accordance with this article, except that reconstruction or change in use shall not result in a requirement for additional parking in the area bounded by Needham Avenue, Downey Avenue, Burney Street, Grand Street, Morton Boulevard, B Street, Tuolumne Boulevard, Freeway 99 and Kansas Avenue.
 - (e) When the required number of spaces results in a fractional space, it shall be counted as a space if it is one-half (0.5) space or more.
 - (f) When a building is removed, any new building on the site shall have spaces provided in accordance with this article.
 - (g) Where there are mixed uses, the requirement for spaces shall be the sum of

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the requirements for each use unless approved for joint use of spaces as set forth below in this section.

- (h) The Board may approve joint use of spaces subject to the following:
- (1) A maximum of fifty (50) percent of the requirement for one (1) use may be provided by the spaces for another use if the two (2) uses are open substantially different hours or days of the week;
 - (2) The parking spaces for both uses comply with all other requirements of this article;
 - (3) For mixed-use projects incorporating both residential and office or commercial uses, the Board/Commission shall be guided by the following principals in making its determination:
 - (i) For office/residential combinations, the Board/Commission may consider a reduction in the number of spaces required for the office portion of up to one-half (1/2) space for each space required for the residential portion of the project.
 - (ii) For commercial/residential combinations, the Board shall consider the specific nature of the commercial businesses and their hours of operation. Criteria for consideration shall include (a) no overlap in peak period of parking between uses, and (b) the extent of overlap in hours of operation. Dependent upon this determination, the Board/Commission may consider a maximum reduction in the number of spaces required for the commercial portion of the project of up to one-half (1/2) space for each space required for the residential portion of the project.
 - (4) If the properties where the use and the required parking are located are owned by different parties, a covenant shall be recorded by the owner of the parking for the benefit of the City and in a form approved by the City Attorney. The covenant shall stipulate that the parking will be maintained as long as the use requiring it continues. It shall also stipulate that the title and right to use the property where the parking is located is subservient to the title to the property where the use is located and that the property will not

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be made subject to any other covenant or contract for use without prior consent of the Board.

- (i) When the parking requirement for a use is not listed above, or if the procedure for determining the requirement is not specified, the Board shall determine the applicable requirement or procedure.
- (j) When a parking requirement is based on square footage, it shall mean gross square footage.
- (k) When a parking requirement is based on number of seats, number of beds or other similar formula, the number shall be as determined by the Director.

10-2.2306. TEMPORARY REAL ESTATE OFFICES AND MODEL HOMES.

One (1) temporary real estate office may be located in any new subdivision, provided that such office shall be used only for the sale of property located in the subdivision in which such office is located and shall be removed at the end of two (2) years from the date of the recording of the map of the subdivision upon which said office is located, except that where fewer than half of the lots in such subdivision have been sold at the end of such two-year period, a conditional use permit may be granted by the Board of Zoning Adjustment for the extension of the time of establishment and removal of such office. Model homes may be utilized as temporary real estate offices as above and may also serve adjacent subdivisions by the same developer and marketed under the same name. The number of model homes on an undivided parcel shall be limited to the lesser of twenty (20) percent of the total dwelling units identified on the Tentative Subdivision Map or seven (7) units per subdivision.

10-3.102. STATEMENT OF AUTHORIZATION.

Density bonuses may be granted as part of the normal approval process for plot plans, rezonings, or subdivision maps. Any additional incentives, as defined in Section 10-3.104, shall be approved by the City Council. Density bonuses for senior housing projects shall be granted only with a rezoning to P-D, Planned Development Zone. The density bonus agreements shall be approved by the City Council.

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10-3.103. CONSISTENCY WITH CALIFORNIA GOVERNMENT CODE.

Density bonuses shall be governed by and shall be in accordance with the provisions of California Government Code Section 65915 through 65917.

10-3.104. INCENTIVES.

Where an applicant requests a concession or incentive in accordance with California Government Code Section 65915, and such incentive or concession is required by law, the following incentives or concessions may be considered:

- (a) Parking: a reduction in the number of spaces required by up to 0.1 spaces per unit for one incentive, and an additional 0.1 spaces per unit for a second incentive, when compared to the standard for parking set forth in California Government Code Section 65915(p).
- (b) Parking: an increase in the proportion of permitted compact spaces up to thirty-five (35) percent.
- (c) Use of Federal, State, or local affordable housing funds to subsidize the cost of the qualifying project.
- (d) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- (e) Deferral of City Capital Facilities Fees until the issuance of a Certificate of Occupancy for the qualifying project.
- (f) Expedited processing, technical assistance, and/or use of redevelopment funds or powers.
- (g) Setback: a reduction of up to ten (10) percent in front yard setback.
- (h) Height limitation: an increase of up to ten (10) percent in maximum height limitation.

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The applicant shall show that any waiver, modification, or concession requested is necessary to make the housing units economically feasible as set forth in Section 10-3.202.

10-3.105. FINDINGS FOR DENIAL OF PROJECT.

Notwithstanding Section 10-3.104, the City shall deny the proposed development if either of the following findings is made:

- (a) The proposed development does not conform to the General Plan or applicable specific plan or zoning and development policies.
- (b) The proposed development would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified.

The above findings shall be made in addition to findings made under other sections of the Municipal Code.

10-3.202. DENSITY BONUS AGREEMENTS.

Any developer requesting a density bonus shall submit a density bonus agreement in a form approved by the City Attorney. The density bonus agreement shall be approved by the City Council and shall run with the land. It may include, but not be limited to, the following provisions:

- (a) The number of requested housing units above the amount allowed by the zoning of the site at the time of approval of the density bonus agreement, and the additional incentives requested.
- (b) The number of affordable units by number of bedrooms and income group to be provided in the project.
- (c) The term of affordability for affordable units, as defined in Section 10-3.301.
- (d) The standards for maximum qualifying incomes for affordable units.
- (e) The standards for maximum rents or sales prices for affordable units.
- (f) The process to be used to certify tenant/homeowner incomes.

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- (g) The arrangements with the Stanislaus County Housing Authority for monitoring of the affordable units.
- (h) How vacancies will be marketed and filled.
- (i) Restrictions and enforcement mechanisms binding on property upon sale or transfer.
- (j) Penalties and enforcement mechanisms in event of failure to maintain affordability provisions.
- (k) Any other provisions deemed necessary by the City of Modesto.

10-3.204. CALCULATING AFFORDABLE AND DENSITY BONUS UNITS.

In calculating the additional density bonus units to be allowed over what is allowed by the existing zoning of the site at the time of approval of the density bonus agreement, or the amount of affordable housing units to be required, any resulting fraction of a unit shall be rounded up to the next whole number.

10-3.301. TERM OF AFFORDABILITY.

If a density bonus is granted, then affordability of the approved low-income or very-low-income bonus units shall be maintained for a period of thirty (30) years, beginning when the units are first available for occupancy.

SECTION 3. AMENDMENT OF CODE. Section 10-2.234.3 is hereby added to Article 2 of Chapter 2 of Title 10 to read as follows:

10-2.234.3. MODEL HOME.

A residential structure within a residential subdivision (including a condominium project) used for the purposes of display, advertising, promotion, or sales of homes and not used as a dwelling.

Ordinance 3427-C.S.
Effective: November 23, 2006

SECTION 4. AMENDMENT OF CODE. Article 5 is hereby added to Chapter 3

of Title 10 to read as follows:

ARTICLE 5. SECOND UNIT AFFORDABILITY PROVISIONS

10-3.501. SECOND UNIT AFFORDABILITY AGREEMENTS.

Any applicant requesting a second unit exceeding six hundred forty (640) square feet in size shall submit a second unit affordability agreement in a form approved by the City Attorney. The second unit affordability agreement shall be recorded and shall be a covenant which run with the land. It may include, but not be limited to, the following provisions:

- (a) Requirement that the owner reside in one (1) of the units.
- (b) Requirement that one (1) of the units be maintained as an affordable rental available to persons of low income, as defined in this chapter. In the alternative, the entire site may be occupied by the owner and his/her family members.
- (c) The term of affordability for affordable units (minimum of 30 years).
- (d) The standards for maximum qualifying incomes for affordable units.
- (e) The standards for maximum rents for affordable units.
- (f) The process to be used to certify tenant/homeowner incomes.
- (g) The arrangements with the Stanislaus County Housing Authority for monitoring of the affordable units.
- (h) How vacancies will be marketed and filled.
- (i) Restrictions and enforcement mechanisms binding on property upon sale or transfer.
- (j) Penalties and enforcement mechanisms in event of failure to maintain affordability provisions.

Ordinance 3427-C.S.
Effective: November 23, 2006

SECTION 5. AMENDMENT OF CODE. Sections 10-2.403, 10-2.1103, 10-2.1203, 10-2.1303, 10-2.1403, 10-2.1503, 10-2.1603, 10-2.2332, 10-3.109, 10-3.110, 10-3.111, and 10-3.201 of Title 10 of the Modesto Municipal Code are hereby repealed.

SECTION 6. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.


SECTION 7. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of October 2006, by Councilmember Hawn, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ordinance 3427-C.S.
Effective: November 23, 2006

Ord. No. 3427-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of October 2006, Councilmember Marsh, moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: November 23, 2006

Ordinance 3427-C.S.
Effective: November 23, 2006

ORDINANCE NO. 3428-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.234.2 AND 10-2.307 OF CHAPTER 2 OF TITLE 10, ADDING SECTIONS 10-2.2203 AND 10-2.2204 TO CHAPTER 2 OF TITLE 10, AND REPEALING ARTICLE 24.1 OF CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE PERTAINING TO MEDICAL MARIJUANA DISPENSARIES AND USES PROHIBITED BY STATE AND FEDERAL LAW.

SECTION 1. FINDINGS. The City Council of the City of Modesto hereby finds that in 1996, the voters of the State of California approved Proposition 215, codified as California Health and Safety Code Section 11362.5, et seq. Effective January 1, 2004, the State Legislature enacted SB 420 to clarify the scope of Proposition 215 and to allow cities to adopt and enforce rules and regulations consistent with SB 420. In the early months of 2005, the City of Modesto received several inquiries from individuals seeking to establish medical marijuana dispensaries in the City of Modesto. After adoption of an emergency interim ordinance to study the matter further, the Modesto City Council adopted Ordinance No. 3401-C.S. on December 14, 2005, prohibiting medical marijuana dispensaries and setting forth an amortization period. After further review and research as a result of a challenge to the applicability of the ordinance to only medical marijuana dispensaries that operate on a for profit basis, the Council finds that it is necessary to amend the ordinance to clarify its intent to prohibit medical marijuana dispensaries that do not comply with State and Federal law.

As set forth in the July 13, 2004, memorandum from Mark Siemens, Chief of Police of the City of Rocklin, which was originally considered by the Council in 2005, as well as the October 3, 2006, memorandum from the Modesto Police Department which details the criminal and nuisance activity which has occurred as a direct result of

Ordinance 3428-C.S.
Effective: December 8, 2006

the operation of an unregulated medical marijuana dispensary in the City of Modesto, it is apparent that from the experiences in other cities such as Oakland, Hayward, Fairfax, and Roseville, as well as Modesto's experience, that medical marijuana dispensaries in general create negative secondary effects in the community that include increased illegal drug activity and other crimes, and also bring nuisance activities to neighborhoods including solicitation of marijuana sales to residents and contribute to the deterioration of neighborhoods in which they are located. Most recently, the medical marijuana dispensary at 1009 McHenry Avenue was closed by Federal law enforcement officers; however, as part of their raid it was determined that there was a great deal of criminal activity associated with the operation of this dispensary.

On June 6, 2005, the United State Supreme Court issued its decision in *Gonzales v. Raich*. The Supreme Court held that the Ninth Circuit Court of Appeals had erred in reversing a District Court decision that had denied plaintiff marijuana user's request for a preliminary injunction. The preliminary injunction would have prohibited the enforcement of the Federal Controlled Substances Act to the extent that Act prevented plaintiffs from possessing, obtaining or manufacturing marijuana for their personal medical use as authorized under California's Compassionate Use Act of 1996 (Proposition 215). In other words, the Federal government's prohibition on the possession and/or use of marijuana is still the law in the United States. Marijuana is still subject to seizure under Federal law, and the holder subject to prosecution by Federal agencies. The importance of this case is that following California law will not protect a person from prosecution under Federal laws. Under this circumstance, the Modesto City Council determined that it is bad public policy to allow a use within the City of Modesto that is illegal under Federal law. Accordingly, the Council determined

that it is appropriate to ban all uses in Modesto which are illegal under State and Federal law including without limitation medical marijuana dispensaries.

SECTION 2. AMENDMENT OF CODE. Sections 10-2.234.2 and 10-2.307 of Chapter 2 of Title 10 of the Modesto Municipal Code are hereby amended to read as follows:

10-2.234.2. MEDICAL MARIJUANA DISPENSARIES.

The terms "medical marijuana dispensary" or "dispensary" means any facility or location, stationary or mobile, where medical marijuana is made available to and/or distributed by or to any of the following: a primary caregiver, a qualified patient, or a person with an identification card, in accordance with Health & Safety Code Section 11362.5, et seq. The terms "primary caregiver", "qualified patient", and "person with an identification card" shall be as defined in Health & Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health & Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health & Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health & Safety Code, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health & Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health & Safety Code Section 11362.5, et seq.

10-2.307. PROHIBITED USES.

- (a) No building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as specifically allowed in the zone in which the building or land is located.
- (b) The following uses are prohibited in all zones:
 - (i) Medical marijuana dispensary.
 - (ii) Any facility or location, stationary or mobile, used for the purpose of cultivating marijuana unless such cultivating of marijuana is by a primary caregiver as defined in the Health & Safety Code or by a

patient and complies strictly with applicable law including, but not limited to, Health & Safety Code Section 11362.5.

- (iii) Any facility or location, stationary or mobile, used for the purpose of delivering, giving away, providing, or furnishing of marijuana unless such delivering, giving away, providing, or furnishing of marijuana is by a primary caregiver as defined in the Health & Safety Code and complies strictly with applicable law including, but not limited to, Health & Safety Code Section 11362.765 and Health & Safety Code Section 11362.77.
- (iv) Any use which is prohibited by State and Federal law.

SECTION 3. AMENDMENT OF CODE. Sections 10-2.2203 and 10-2.2204 are hereby added to Chapter 2 of Title 10 of the Modesto Municipal Code to read as follows:

10-2.2203. AMORTIZATION OF NONCONFORMING PROHIBITED USES.

Notwithstanding 10-2.2202, any use of real property existing on the effective date of this ordinance, which was constructed, operated, and maintained in compliance with all previous regulations, but which has been determined to be a prohibited use in accordance with Section 10-2.307 shall be regarded as a nonconforming use which may be continued until six (6) months after the effective date of the ordinance prohibiting such use. On or before such latter date, all such nonconforming uses shall be terminated unless an application for extension of time has been approved in accordance with the provisions of Section 10-2.2204.

- (a) **Abandonment.** Notwithstanding the above, any discontinuance or abandonment of a use as set forth above, shall result in a loss of legal nonconforming status of such use.
- (b) **Amortization - Annexed Property.** Any use of real property which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of Section 10-2.307 shall be terminated within six (6) months of the date of annexation unless an application for extension of time has been approved in accordance with the provisions of Section 10-2.2204.

10-2.2204. EXTENSION OF TIME FOR TERMINATION OF NONCONFORMING PROHIBITED USE.

The owner or operator of a nonconforming use as described in Section 10-2.2203 may apply under the provisions of this section to the Community and Economic Development Director for an extension of time within which to terminate the nonconforming use.

- (a) **Time and Manner of Application.** An application for an extension of time within which to terminate a nonconforming use as described in Section 10-2.2203, may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the Community and Economic Development Director at least ninety (90) days but no more than one hundred eighty (180) days prior to the time established in Section 10-2.2203 for termination of such use.
- (b) **Content of Application; Fees.** The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the City Council.
- (c) **Hearing Procedure.** The City Manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within forty-five (45) days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to Code of Civil Procedure Section 1094.6.
- (d) **Factors to be Considered by the Hearing Officer.** In determining whether an extension of time under the provisions of this section shall be approved, the hearing officer shall consider the following:
 - (1) The applicant's investment in the property or structure on or in which the nonconforming use is conducted;
 - (2) The applicant's lease obligations in the property or structure on or in which the nonconforming use is conducted;
 - (3) Whether such property or structure can be readily converted to another use;

- (4) Whether the applicant's investment in the property or structure on or in which the nonconforming use is conducted was made prior to the effective date of the ordinance;
 - (5) Whether the applicant will be able to recoup the applicant's investment in the property or structure on or in which the nonconforming use is conducted as of the date established for termination of the nonconforming use;
 - (6) Whether the applicant has made good faith efforts to recoup the applicant's investment and to relocate the nonconforming use to a location outside the City of Modesto; and
- (e) **Approval of Extension; Findings.** An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings:
- (1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to the effective date of this ordinance;
 - (2) The applicant will be unable to recoup said investment as of the date established for termination of the use; and
 - (3) The applicant has made good faith efforts to recoup the investment and to relocate the use to a location outside the City of Modesto.

SECTION 4. REPEALS. Article 24.1 of Chapter 2 of Title 10 of the Modesto Municipal Code is hereby repealed.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

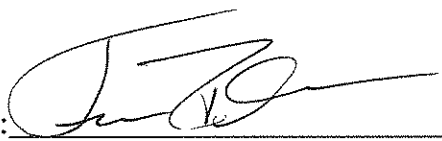
SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October 2006, by Councilmember Dunbar, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Ord. No. 3428-C.S.


FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of November 2006, Councilmember Hawn, moved its final adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: December 8, 2006

Ordinance 3428-C.S.
Effective: December 8, 2006

ORDINANCE NO. 3429-C.S.

AN ORDINANCE AMENDING SECTION 1-3-8 OF THE ZONING MAP TO REZONE FROM SPECIFIC PLAN OVERLAY ZONE, SP-O, TO PLANNED DEVELOPMENT ZONE, P-D(576), PROPERTY LOCATED ON THE NORTHEAST CORNER OF PELANDALE AVENUE AND DALE ROAD. (BANK OF STOCKTON)

The Council of the City of Modesto does ordain as follows:

SECTION 1. ZONING CHANGE. Section 1-3-8 of the Zoning Map is hereby amended to reclassify the following described property from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(576):

SP-O to P-D(576)

All that portion of the north half of the southwest quarter of Section 1, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, particularly described as follows:

Parcel A as shown on the Map recorded in Book 47 of Parcel Maps at Page 46, Stanislaus County Records. Containing 3.00 acres.

Also including the North one-half of Pelandale Avenue adjacent to the above described property.

SECTION 2. USES. The following uses shall be permitted in said P-D(576) Zone if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-2.1709(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-2.1709(a) or (b) of the Modesto Municipal Code:

1. A bank or financial institution.
2. Professional/medical offices as allowed in the P-O Zone.

SECTION 3. ZONING MAP. Section Map 1-3-8 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember O'Bryant, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

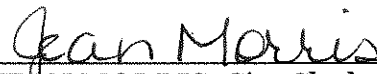
AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

APPROVED: 
JIM RIDENOUR, Mayor

ATTEST:

By: 
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department - Planning Division

Ord. No. 3429-C.S.

FINAL ADOPTION CLAUSE


The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, Councilmember Hawn moved its final adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

APPROVED: 
MAYOR JIM RIDENOUR

ATTEST: 
JEAN MORRIS, City Clerk

Effective Date: December 28, 2006

